



# California Regulatory Notice Register

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JULY 29, 2005

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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## PROPOSED ACTION ON REGULATIONS

*Information contained in this document is published as received from agencies and is not edited by the Office of State Publishing.*

### TITLE 2. CALIFORNIA STATE LIBRARY

#### NOTICE OF INTENTION TO AMEND A CONFLICT OF INTEREST CODE

**NOTICE IS HEREBY GIVEN** that the California State Library intends to ask the Fair Political Practices Commission to amend the Library's Conflict of Interest Code pursuant to Government Code Section 87302. Pursuant to Government Code Sections 87300–87302 and 87306, the code designates employees who must disclose certain investments, income, interest in real property and business positions, and who must disqualify themselves from making or participating in the making of governmental decisions affecting those interests. This proposed amendment will incorporate three new designated positions added to the Library since the last revision, change classifications or position designations which have been modified since the last revision, and delete positions which are no longer relevant to the Library's Conflict of Interest Code.

Pursuant to Title 2, California Code of Regulations, Section 18750, a written comment period has been established commencing on July 29, 2005 and terminating on September 12, 2005. Any interested person may present written comments concerning the proposed code amendments no later than September 12, 2005 to the California State Library, Attn. Victor Pong, 1029 J Street, Suite 400, Sacramento, California 95814. Any interested person or his or her representative may present oral comments related to this amendment of the State Library's Conflict of Interest code at a public hearing to be held September 12, at 9:00 a.m. in Room 213 of the Library and Courts I Building, 914 Capitol Mall, Sacramento, CA. 95814.

The California State Library has prepared a written explanation of the reasons for the designations and the disclosure responsibilities and has available all of the information upon which its proposal is based.

Copies of the proposed amendment to the Conflict of Interests Code, and all of the information upon which it is based, may be obtained from the California State Library, FPPC Comments, 1029 J Street,

Suite 400, Sacramento, CA 95814. Any inquiries concerning the proposed code amendments should be directed to Victor Pong at (916) 445-9595.

The California State Library has determined that no alternative considered by the agency would be more effective in carrying out the proposed changes for which the actions are presented or would be as effective and less burdensome to affected private persons than the proposed action.

#### COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The California State Library has determined that this proposal imposes no mandate on local agencies or school districts.

Cost or savings to any state agency: none

Cost to any local agency or school district in which reimbursement is required under Part 7 (commencing with Section 17500) of division 4 of the Government Code: none

Other non-discretionary cost or savings imposed on local agencies: none

#### EFFECT OF HOUSING COSTS AND SMALL BUSINESS

The adoption, amendment or repeal of the proposed regulation will have no significant effect on housing costs or on private persons, business, or small businesses.

### TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

**NOTICE IS HEREBY GIVEN** that the Fair Political Practices Commission, under the authority vested in it by section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Fair Political Practices Commission will consider the proposed regulations at a public hearing on or after **September 1, 2005, at 9:45 a.m.** Written comments must be received at the Commission offices no later than **5:00 p.m. on August 30, 2005.**

#### BACKGROUND/OVERVIEW

Shortly before the recent November statewide election, the state's Republican and Democratic parties, along with the Orange County Republican Party, sued the FPPC in federal district court, alleging that the advertising disclosure provisions of the Political Reform Act ("Act") that require on-publication identification of the two largest contributors of \$50,000 or more were unconstitutional. (*California Republican Party, California Democratic Party, et al., v. Fair Political Practices Commission, et al.*, No. Civ-S-04-2144, E.D. Cal.) The primary

ground of the complaint is based on a 2004 Ninth Circuit opinion (*American Civil Liberties Union of Nevada v. Heller*, 378 F.3d 979 (“*Heller*”)) that struck down a Nevada statute that also required on-publication identification of donors.

In light of controlling appellate authority and the holding of the district court in the current litigation, the Commission adopted a resolution earlier in the year clarifying the Commission’s enforcement policy with respect to Government Code sections 84503 and 84506 as they apply to general purpose committees. The Commission will consider amending an existing regulation to reflect the policy decision embodied in the resolution.

#### REGULATORY ACTION

The Commission will consider adding a new subdivision (a) to regulation 18450.4 to indicate that the disclosure requirements of sections 84503 and 84506, subdivision (a)(2), do not apply to general purpose committees. The remaining subdivisions are renumbered accordingly. Finally, a technical fix is made in renumbered subdivision (d) to clean up potentially confusing language and to ensure that the subdivision addresses “contributors” of identical amounts, as opposed to “contributions.” These amendments codify the Commission’s policies consistent with the resolution adopted earlier this year and provide the necessary clarity to the advertising disclosure regulations.

The Commission may adopt the language noticed in these proposed regulations, or it may choose new language to implement its decisions concerning the issues identified above or related issues.

#### FISCAL IMPACT STATEMENT

Fiscal Impact on Local Government. These regulations will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. These regulations will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. These regulations will have no fiscal impact on the federal funding of any state program or entity.

#### AUTHORITY

Section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Political Reform Act.

#### REFERENCE

The purpose of these regulations is to implement, interpret and make specific Government Code sections 84503, 84504, and 84506.

#### CONTACT

Any inquiries should be made to C. Scott Tocher, Fair Political Practices Commission, 428 J Street, Suite 800, Sacramento, CA 95814; telephone (916) 322-5660 or 1-866-ASK-FPPC. Proposed regulatory language can be accessed at [www.fppc.ca.gov](http://www.fppc.ca.gov).

#### ADDITIONAL COMMENTS

After the hearing, the Commission may adopt or repeal the proposed regulations if they remain substantially the same as described or as in the text originally made available to the public. The Commission may make changes to the proposed regulations before their adoption or repeal.

### TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, under the authority vested in it by section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Fair Political Practices Commission will consider the proposed regulation at a public hearing on or after **September 1, 2005**, at approximately **9:45 a.m.** Written comments must be received at the Commission offices no later than **5:00 p.m.** on **August 30, 2005**.

#### BACKGROUND/OVERVIEW

Adopt 2 Cal. Code Regs. § 18732.5: The proposed regulation specifies how statements of economic interests for agencies to be abolished are to be handled.

With regard to agencies for which the Commission is the code reviewing body, the proposed regulation will state that during a time period of approximately one to six months prior to abolishment, statements filed with the agency shall be sent to either a successor agency (if directed by the legislation or order abolishing the dying agency) or the Commission. Statements filed within 30 days of an agency’s abolishment shall be filed with the agency to be abolished, a successor agency, or the Commission, at the Commission’s discretion.

Statements of public officials who currently file with the Commission as statutory filers will continue to file their statements with the Commission whether their agency is designated for abolishment or not.

With regard to local government agencies to be abolished for which the Commission is not the code reviewing body, the code reviewing body of the abolished agency will be given flexibility to determine how statements shall be handled.



#### FISCAL IMPACT

Fiscal Impact on Local Government. This regulation will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. This regulation will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulation will have no fiscal impact on the federal funding of any state program or entity.

#### AUTHORITY

Section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Political Reform Act.

#### REFERENCE

The purpose of this regulation is to implement, interpret and make specific Government Code sections 81010, 87200–87350 and 87500.

#### CONTACT

Any inquiries concerning this proposal should be made to Andy Rockas, Fair Political Practices Commission, 428 J Street, Eighth Floor, Sacramento, California 95814, telephone: (916) 322-5660. Propose regulatory language can be accessed at [www.fppc.ca.gov](http://www.fppc.ca.gov).

#### ADDITIONAL COMMENTS

After the hearing, the Commission may adopt or repeal the proposed regulation if it remains substantially the same as described or as in the text originally made available to the public. The Commission may make changes to the proposed regulation before its adoption or repeal.

## TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, under the authority vested in it by section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Fair Political Practices Commission will consider the proposed regulations at a public hearing commencing on or after **September 1, 2005, at 9:45 a.m.** Written comments must be received at the Commission offices no later than **5:00 p.m. on August 30, 2005.**

#### BACKGROUND/OVERVIEW

The Legal Division periodically conducts a review of Commission regulations. Several technical “clean-up” amendments are proposed which eliminate out-

dated references or make similar conforming changes. All of the proposed amendments are non-substantive in nature.

#### REGULATORY ACTION

*Amend 2 Cal. Code Regs. section 18401:* Amendment of subsection (a)(B)(2) will clarify ambiguous language. As currently presented, it appears that no records are required for miscellaneous receipts of \$100 or more.

*Amend 2 Cal. Code Regs. section 18427.1:* Inclusion of late contributions made to political party committees totaling \$1,000 or more during the 16-day period prior to any state election needs to be added in the required notice to major donors.

*Amend 2 Cal. Code Regs. section 18700:* This regulation needs a conforming change referencing regulation 18709 (added in 2003) in the context of the eight-step conflict-of-interest process.

*Amend 2 Cal. Code Regs. section 18705:* Despite purportedly overruling 18705.1 through 18705.5 in the preamble (subdivision (c)), the actual exception in subdivision (c)(1) does not apply to 18705.5. The amendment, with clarifying language, internally harmonizes the regulatory language of subdivision (c).

*Amend 2 Cal. Code Regs. section 18707.9:* Subdivision (a) of regulation 18707.9 refers to regulation 18707.3(b), which was repealed.

*Amend 2 Cal. Code Regs. section 18730:* The omission of the words “equals or” in this regulation conflicts with the corresponding statute in reference to disclosure of the fair market value of an investment or interest in real property. Amendment to the regulation at subsection (b)(7)(A)(4) will bring it in compliance with the section 87206(d).

*Amend 2 Cal. Code Regs. section 18750:* Regulation 18750 states that it applies to all state agencies; however, the actual scope is only for those agencies under the Commission’s authority as the code reviewing body. Clarifying language needs to be added to subdivision (a) defining the scope of the regulation in light of the statute.

#### FISCAL IMPACT STATEMENT

Fiscal Impact on Local Government. These regulations will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. These regulations will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. These regulations will have no fiscal impact on the federal funding of any state program or entity.

#### AUTHORITY

Government Code section 83112 provides that the Fair Political Practices Commission may adopt,

amend, and rescind rules and regulations to carry out the purposes and provisions of the Political Reform Act.

#### REFERENCE

The purpose of these regulations is to implement, interpret and make specific Government Code sections 82036, 84104, 84100–84400, 84105, 85700, 87100, 87102.5, 87102.6, 87102.8, 87103, 87300, 87302–87303, 87306, 89501, 89502, and 89503.

#### CONTACT

Any inquiries should be made to Joan Giannetta, Fair Political Practices Commission, 428 J Street, Suite 800, Sacramento, CA 95814; telephone (916) 322-5660 or 1-866-ASK-FPPC. Proposed regulatory language can be accessed at: <http://www.fppc.ca.gov/index.html?id=351>.

#### ADDITIONAL COMMENTS

After the hearing, the Commission may adopt or repeal the proposed regulations if they remain substantially the same as described or as in the text originally made available to the public. The Commission may make changes to the proposed regulations before their adoption or repeal.

## TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by section 83112 of the Government Code and 2 Cal. Code of Regs., section 18312, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. A public hearing on the proposed regulation will be held on or after **September 1, 2005**, at the offices of the Fair Political Practices Commission, 428 J Street, Suite 800, Sacramento, California 95814, commencing at approximately **9:45 a.m.** Written comments to be submitted to the Commission prior to the hearing must be received no later than **5:00 p.m. on August 30, 2005**, at the Commission offices.

#### BACKGROUND/OVERVIEW

The Political Reform Act (the “Act”) was adopted by the voters of California in 1974. The purpose for the conflict-of-interest provisions of the Act was to ensure that public officials, whether elected or appointed, would perform their duties in an impartial manner, free from any bias caused by their own financial interests or the financial interests of persons who have supported them. (§ 81001, subd. (b).)

In furtherance of this goal, the Act requires that a public official’s assets and income which may be materially affected by his or her official actions should

be disclosed, and in appropriate circumstances the official should be disqualified from acting in order that conflicts of interest are avoided. (§ 81002, subd. (c).) To facilitate this disclosure, the Act requires every public official to report his or her economic interests that might be affected by his or her official actions, on statements of economic interests that must be filed at specified intervals. (§§ 87202–87204, 87300, and 87302.) The Act requires each public official to file a statement of economic interests: within a specified period after being appointed to, being nominated to, or assuming a public office (§§ 87202, subd. (a) and 87302, subd. (b)); by a specified date every year after assuming office (§§ 87203 and 87302, subd. (b)); and within 30 days of leaving office (§§ 87204, and 87302, subd. (b)).

Just as the Act imposes duties on public officials to file statements of economic interests (§§ 87200–87205, 87302, and 87302.6), the Act also imposes other disclosure obligations on public officials (§ 82015(b)(2)(B)(iii)), as well as disclosure obligations on lobbyists and lobbyist employers (§ 86100–86117), and candidates and committees (§§ 84101, 84103, 84108, 84200–84209, 84218, 84220, 84225, 84511, 84605, 85304, 85309, 85310, and 85500). Integral to imposing these obligations, the Act requires that the disclosure documents be filed with specified filing officers and officials. (§§ 84215, 86118, and 87500.) These filing officers and officials, in turn, also have specified duties imposed upon them by the Act (§ 81010).

Proposed regulation 18722 describes with greater specificity: the date that an official becomes obligated to file an assuming statement of economic interests or a leaving office statement. Decision points have been added in subdivisions (a) and (b) of the regulation to allow the Commission to determine whether they prefer a “bright line” rule for purposes of determining when a filer has to file an assuming or a leaving office statement, or whether the Commission wants a rule that is based on when an official participates in the decision-making process. Under the latter approach, the filing deadlines would depend on the official’s conduct. Subdivision (b) also reflects that a person will not be considered to have left office if he or she is on a leave of absence or works on an intermittent basis.

Proposed regulation 18117 describes with greater specificity the effect of the failure of a filing officer or official to perform some duty or provide some notice has on the duty of public officials, lobbyists, lobbyist employers, candidates and committees to comply with the filing duties imposed by sections 82015(b)(2)(B)(iii), 84101, 84103, 84108, 84200–

84209, 84218, 84220, 84225, 84511, 84605, 85304, 85309, 85310, 85500, 86100–86117, 87200–87205, 87302, and 87302.6.

#### Discussion of Proposed Regulatory Action

The Commission may adopt the language noticed in these proposed regulations, or it may choose new language to implement its decisions concerning the issues identified above or related issues.

Fiscal Impact on Local Government. These regulations will have no fiscal impact on any local entity or program.

Fiscal Effect on State Government. These regulations will have no fiscal impact on any state agency or program.

Fiscal Effect on Federal Funding of State Programs. These regulations will have no fiscal impact on any federally funded state program or agency.

#### AUTHORITY

Government Code Section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Political Reform Act.

#### REFERENCE

The purpose of these regulations is to implement, interpret and make specific Government Code Sections as follows: sections 81010, 82015(b)(2)(B)(iii), 84101, 84103, 84108, 84200–84209, 84218, 84220, 84225, 84511, 84605, 85304, 85309, 85310, 85500, 86100–86117, 87200–87205, 87302, and 87302.6.

#### CONTACT

Any inquiries concerning the proposals should be made to Steven Benito Russo, Fair Political Practices Commission, 428 J Street, Eighth Floor, Sacramento, California 95814, telephone (916) 322-5660. Proposed regulatory language can be accessed at [www.fppc.ca.gov](http://www.fppc.ca.gov).

#### ADDITIONAL COMMENTS

After the hearing, the Fair Political Practices Commission may adopt the proposed regulation if it remains substantially the same as described or as in the text originally made available to the public. The Fair Political Practices Commission may make changes to the proposed regulation before its adoption.

### TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture adopted Section 3591 and subsections (a)(b) and (c) of the regulations in Title 3 of the California Code of Regulations pertaining to

Asian Longhorned Beetle Eradication Area as an emergency action that was effective on June 27, 2005. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than October 25, 2005.

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period. Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

Notice is also given that any person interested may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before September 19, 2005.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law provides that the Secretary is obligated to investigate the existence of any pest that is not generally distributed within this state and determine the probability of its spread, and the feasibility of its control or eradication (FAC Section 5321).

Existing law also provides that the Secretary may establish, maintain, and enforce quarantine, eradication, and other such regulations as he deems necessary to protect the agricultural industry from the introduction and spread of pests (Food and Agricultural Code, Sections 401, 403, 407 and 5322). Existing law also provides that eradication regulations may proclaim any portion of the State as an eradication area and set forth the boundaries, the pest, its hosts, and the methods to be used to eradicate said pest (Food and Agricultural Code Section 5761).

This action adopted Section 3591.18 and subsections (a), (b) and (c) and established Sacramento County as the eradication area, the possible carriers and the means and methods that may be used within the eradication area to eradicate or control Asian longhorned beetle. The effect of this action was to establish authority for the State to conduct eradication activities in Sacramento County. There is no existing, comparable federal regulation or statute.

#### COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department of Food and Agriculture has determined that Section 3591.18 does not impose a mandate on local agencies or school districts and no reimbursement is required for Section 3591.18



under Section 17561 of the Government Code. The Department also has determined that no savings or increased costs to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State will result from the proposed action.

#### **EFFECT ON HOUSING COSTS**

The Department has made an initial determination that the proposed action will not affect housing costs.

#### **EFFECT ON BUSINESSES**

The Department has made an initial determination that the proposed action will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

#### **COST IMPACT ON AFFECTED PRIVATE PERSON OR BUSINESSES**

The agency is not aware of any cost impacts that a representative business or private person would necessarily incur in reasonable compliance with the proposed action.

#### **ASSESSMENT**

The Department has made an assessment that the proposed amendment of the regulations would not (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

#### **ALTERNATIVES CONSIDERED**

The Department of Food and Agriculture must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

#### **AUTHORITY**

The Department proposes to adopt Section 3591.18 and subsections (a), (b) and (c) pursuant to the authority vested by Sections 407 and 5322 of the Food and Agricultural Code.

#### **REFERENCE**

The Department proposes to adopt Section 3591.18 and subsections (a), (b) and (c) to implement, interpret and make specific Sections 407, 5322, 5761, 5762 and 5763 of the Food and Agricultural Code.

#### **EFFECT ON SMALL BUSINESS**

The proposed amendment of this regulation may affect small businesses.

#### **CONTACT**

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed action, location of the rulemaking file, and request for a public hearing may be directed to is: Stephen S. Brown, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room A-316, Sacramento, California 95814, (916) 654-1017, FAX (916) 654-1018, E-mail: sbrown@cdfa.ca.gov. In his absence, you may contact Liz Johnson at (916) 654-1017. Questions regarding the substance of the proposed regulation should be directed to Stephen S. Brown.

#### **INTERNET ACCESS**

The Department has posted the information regarding this proposed regulatory action on its Internet website ([www.cdfa.ca.gov/cdfa.pendingregs](http://www.cdfa.ca.gov/cdfa.pendingregs)).

#### **AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS**

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, when completed, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

If the regulations amended by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of amendment. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named herein.

### **TITLE 4. CALIFORNIA HORSE RACING BOARD**

#### **DIVISION 4, CALIFORNIA CODE OF REGULATIONS**

#### **NOTICE OF PROPOSAL TO AMEND RULE 1977. PICK THREE**

The California Horse Racing Board (Board) proposes to amend the regulation described below after



considering all comments, objections or recommendations regarding the proposed action.

#### PROPOSED REGULATORY ACTION

The Board proposes to amend Rule 1977, Pick Three, which is a pari-mutuel wager. The proposed amendment deletes the provision under subsection 1977(h) where the favorite horse is substituted for all purposes if a horse is scratched, excused or determined by the Stewards to be a non-starter in a Pick Three race. Subsection 1977(h) has been amended to provide that if a horse is scratched (which hereinafter includes being declared a non-starter) from any leg of the Pick Three, prior to the running of the first leg, all wagers containing such horse(s) shall be refunded. New Subsections 1977(i), (j) and (k) specify how the payout will be computed if a horse is scratched in the second leg, after the first leg has been run; the payout if a horse is scratched in the third leg, after the second leg has been run and the payout if a horse is scratched in the second and the third leg, after the first leg has been run.

#### PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Wednesday, September 14, 2005**, or as soon after that as business before the Board will permit, at the **Sheraton Suites, Pomona, 601 West McKinley Avenue, Pomona, California**. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony.

#### WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes at **5:00 p.m. on September 12, 2005**. The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing. Submit comments to:

Harold Coburn, Regulation Analyst  
California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
Telephone: (916) 263-6397  
Fax: (916) 263-6042  
E-mail: [HaroldA@chrb.ca.gov](mailto:HaroldA@chrb.ca.gov)

#### AUTHORITY AND REFERENCE

Authority cited: Sections 19440 and 19590, Business and Professions (B&P) Code. Reference: 19590, B&P Code.

B&P Code Sections 19440 and 19590 give the Board jurisdiction and supervision over meetings in California where horse races with wagering on their results are held and authorize the Board to adopt, amend or repeal regulations.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

B&P Code Section 19440 states that the Board shall have all powers necessary and proper to enable it to adopt rules and regulations for the protection of the public and the control of horse racing. B&P Code Section 19590 provides that the Board shall adopt rules governing, permitting, and regulating pari-mutuel wagering on horse races under the system known as the pari-mutuel method of wagering.

The Pick Three is a separate pari-mutuel pool established on three consecutive races. The pool consists of amounts wagered on the winning horse in each of the races. Subsection 1977(h) currently provides that if a horse is scratched, excused or determined by the stewards to be a nonstarter in the race, the off-time favorite shall be substituted for the non-starting selection for all purposes. At the February 2005 Pari-Mutuel Operations Committee meeting a proposal to amend subsection 1977(h) was heard. The committee learned the substitution of the off-time favorite was not popular with wagering fans, as they were often wagering against the favorite. In addition, the National Thoroughbred Racing Association's (NTRA) Players Panel, an NTRA advisory body charged with making policy recommendations of importance to bettors, stated the practice was unfair to persons placing such wagers. The NTRA Players Panel recommended Pick Three wager be amended to eliminate the practice. The proposal to amend subsection 1977(h) provides that if a horse is scratched from any leg of the Pick Three prior to the running of the first leg, all wagers containing such horse(s) shall be refunded.

Subsection 1977(i) provides for a consolation payout if a wagering interest is scratched from the second leg of the Pick Three after the start of the first leg. The payout consists of the amount wagered on combinations that included the wagering interest scratched from the second leg. The amount is deducted from the gross Pick Three pool, and after the takeout is deducted, the amount is distributed to holders of tickets that combine the winners of the first and third leg and the scratched wagering interest(s).

Subsection 1977(j) provides for a consolation payout if a wagering interest is scratched from the third leg after the start of the second leg. The payout consists of the amount wagered on combinations that include the wagering interest(s) scratched from the third leg. The amount is deducted from the gross Pick

Three pool, and after the takeout is deducted, the amount is distributed to holders of tickets that combine the winners of the first and second leg and the scratched wagering interest(s).

Subsection 1977(k) provides for a consolation payout if wagering interests are scratched from the second and third leg of the Pick Three after the start of the first leg. The payout consists of the amount wagered on combinations that include the wagering interests scratched from the second and third leg. The amount is deducted from the gross Pick Three pool, and after the takeout is deducted, the amount is distributed to holders of tickets that combine the winner of the first leg and the scratched wagering interests.

All other changes to the text of Rule 1977 were made for purposes of clarity and consistency.

#### **DISCLOSURE REGARDING THE PROPOSED ACTION**

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code Section 17500 through 17630: none.

Other non-discretionary cost or savings imposed upon local agencies: none.

Cost or savings in federal funding to the state: none.

The Board has made an initial determination that the proposed amendment to Rule 1977 will not have a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

Cost impact on representative private persons or businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: none.

The adoption of the proposed amendment to Rule 1977 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

Effect on small businesses: none. The proposal to amend Rule 1977 does not affect small businesses because horse racing associations in California are not classified as small businesses under Government Code Section 11342.610.

#### **CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative considered, or that has otherwise been identified and brought to the

attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome on affected private persons than the proposed action.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

#### **CONTACT PERSONS**

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to:

Harold Coburn, Regulation Analyst  
California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
Telephone: (916) 263-6397  
E-mail: [HaroldA@chrb.ca.gov](mailto:HaroldA@chrb.ca.gov)

If the person named above is not available, interested parties may contact:

Jacqueline Wagner, Manager  
Policy and Regulations  
Telephone: (916) 263-6041  
Pat Noble, Regulation Analyst  
Telephone: (916) 263-6033

#### **AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION**

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies may be obtained by contacting Harold Coburn, or the alternate contact person at the address, phone number or e-mail address listed above.

#### **AVAILABILITY OF MODIFIED TEXT**

After holding a hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text, with changes clearly marked, shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulations. Requests for copies of any modified regulations should be sent to the attention of Harold Coburn at the

address stated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

#### AVAILABILITY OF FINAL STATEMENT OF REASONS

Requests for copies of the final statement of reasons, which will be available after the Board has adopted the proposed regulation in its current or modified form, should be sent to the attention of Harold Coburn at the address stated above.

#### BOARD WEB ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its web site. The rulemaking file consists of the notice, the proposed text of the regulations and the initial statement of reasons. The Board's web site address is: [www.chrb.ca.gov](http://www.chrb.ca.gov).

### **TITLE 8. OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD**

#### NOTICE OF PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD AND NOTICE OF PROPOSED CHANGES TO TITLE 8 OF THE CALIFORNIA CODE OF REGULATIONS

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has set the time and place for a Public Meeting, Public Hearing, and Business Meeting:

**PUBLIC MEETING:** On **September 15, 2005**, at 10:00 a.m. in the Auditorium, Room 102 of the Office Building 9, 744 P Street, Sacramento, California 95814.

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

**PUBLIC HEARING:** On **September 15, 2005**, following the Public Meeting in the Auditorium, Room 102 of the Office Building 9, 744 P Street, Sacramento, California 95814.

At the Public Hearing, the Board will consider the public testimony on the proposed changes to occupational safety and health standards in Title 8 of the California Code of Regulations.

**BUSINESS MEETING:** On **September 15, 2005**, following the Public Hearing in the Auditorium, Room 102 of the Office Building 9, 744 P Street, Sacramento, California 95814.

At the Business Meeting, the Board will conduct its monthly business.

The meeting facilities and restrooms are accessible to the physically disabled. Requests for accommodations for the disabled (assistive listening device, sign language interpreters, etc.) should be made to the Board office no later than 10 working days prior to the day of the meeting. If Paratransit services are needed, please contact the Paratransit office nearest you.

#### NOTICE OF PROPOSED CHANGES TO TITLE 8 OF THE CALIFORNIA CODE OF REGULATIONS BY THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Notice is hereby given pursuant to Government Code Section 11346.4 and Labor Code Sections 142.1, 142.4 and 144.5, that the Occupational Safety and Health Standards Board pursuant to the authority granted by Labor Code Section 142.3, and to implement Labor Code Section 142.3, will consider the following proposed revisions to Title 8, General Industry Safety Orders, as indicated below, at its Public Hearing on **September 15, 2005**.

1. **TITLE 8:** **GENERAL INDUSTRY SAFETY ORDERS**  
Chapter 4, Subchapter 7, Article 107, Section 5154.1  
**Ventilation Requirements for Laboratory-Type Hood Operations**
2. **TITLE 8:** **GENERAL INDUSTRY SAFETY ORDERS**  
Chapter 4, Subchapter 7, Article 107, Section 5155  
**Airborne Contaminants**

A description of the proposed changes are as follows:

1. **TITLE 8:** **GENERAL INDUSTRY SAFETY ORDERS**  
Chapter 4, Subchapter 7, Article 107, Section 5154.1  
**Ventilation Requirements for Laboratory-Type Hood Operations**

#### INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

Existing Section 5154.1, Ventilation Requirements for Laboratory-Type Hood Operations, provides minimum requirements for the protection of employees when laboratory-type hoods are used to prevent harmful exposure to toxic material. Section 5154.1



specifies minimum ventilation and performance requirements, limitations on the use of laboratory-type hoods, and several specific requirements related to concentrations of flammable materials in the hood and duct, hazards associated with the exhaust stack, blowers, biological contaminants, use with perchloric acid, placarding of deficient hoods, devices used to indicate airflow, and a requirement that the inward flow into the hood be demonstrated.

The objectives of the proposed revisions to Section 5154.1 are to improve the performance of laboratory-type fume hoods when they are used to control harmful exposure to toxic materials or reduce the potential risk of fire and explosion. Labor Code Section 144.6 requires the Board to adopt standards for toxic materials that assure that no employee suffers material impairment or loss of functional capacity from exposure to such materials. Laboratory-type hoods are used to control the extent to which employees are exposed to toxic materials and the risk of fire and explosion. Section 5154.1 is intended to place requirements on the use and performance of laboratory-type hoods that make the hoods effective as devices to control these hazards. Other changes are proposed that will clarify existing requirements, but not substantively change them.

Changes are proposed to the current definitions of the terms "hazardous substance" and "laboratory-type hood" in subsection (b). The change to the term "hazardous substance" is intended to clarify that hazardous substances are those likely to cause injury or illness if not used with effective control methods, and not substantively alter the meaning of the term. The term "laboratory-type hood" is changed to indicate that laboratory-type hoods are used to control exposure to hazardous substances as compared with the current description as a device in which hazardous substances are used. This change is intended to make the definition of laboratory-type hood consistent with the change to the term "hazardous substance."

Subsection (c), Ventilation Rates, is changed by adding an option to operate the laboratory-type hood at a reduced average face velocity of 60 feet per minute (fpm) if the hood is not being accessed by an operator and other specified conditions are met. The effect of this change will be to provide a reduced ventilation rate while not compromising the ability of the laboratory-type hood to contain the hazardous substances in the hood. A non-substantive change is also proposed to change the current velocity units from "linear feet per minute" to "feet per minute." This change will make the velocity unit consistent with the units used in other ventilation standards.

The requirement in subsection (e)(2) to install sash closure restrictions is changed to permit hoods to operate without a permanent sash stop, provided other

openings into the hood, such as the space under an airfoil, are sufficient to ventilate the hood for explosion control. The effect of this change will be to eliminate the need for installing unnecessary sash stops in these cases.

The requirements in subsection (e)(3) are changed by replacing the current requirement for a continuous qualitative airflow indicator to a requirement for a continuous quantitative monitor. The requirement for a periodic inward airflow demonstration is also changed to require that it be conducted on an annual basis, as well as at installation, repairs or renovation, and the addition of large equipment into the hood. The change includes an exception permitting biannual airflow demonstration and velocity measurement if a calibration and maintenance program is in place for the quantitative airflow monitor or alarm system. The effect of this change will be to provide the hood user with a means of detecting changes in the airflow into the hood which cannot be detected with qualitative indicators and can cause significant reduction in the ability of the hood to control harmful exposure. The effect of the requirement for a specific procedure to demonstrate inward airflow on an annual basis will be to improve the reliability of the airflow demonstration to detect hoods with inadequate capture and containment characteristics initially and over time.

The requirement in subsection (e)(7) specifying construction materials is changed to include references to more recent polymer materials which are suitable for construction of laboratory-hoods that are used in perchloric acid evaporation processes. This change is not intended to substantively alter the current requirement. The effect of this change is to reduce uncertainty when these more recent materials are used.

The proposal adds a new subsection regarding hood operator qualifications. The subsection requires that employers take steps to ensure that employees understand the functional characteristics of the hood and are trained to use the hood safely. The subsection requires that the employees be familiar with the performance testing requirements for the hood and can determine when the hood was last tested. The effect of this change will be to reduce the risk that (1) employees use laboratory-type hoods in an unsafe manner, (2) the employee is unaware that required performance tests have not been performed, and (3) the hood is currently operating in an unsafe manner.

These amendments to Title 8 CCR Section 5154.1 are proposed pursuant the authority granted to the Occupational Safety and Health Standards Board in Labor Code Section 142.3.

#### DOCUMENTS INCORPORATED BY REFERENCE

- Section 7, Tracer Gas Test Procedure, American Society of Heating, Refrigerating and Air-



Conditioning Engineers, Inc., ANSI/ASHRAE 110-1995, Method of Testing Performance of Laboratory Fume Hoods.

This document is too cumbersome or impractical to publish in Title 8. Therefore, it is proposed to incorporate the document by reference. A copy of this document is available for review Monday through Friday from 8:00 a.m. to 4:30 p.m. at the Standards Board Office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California.

## COST ESTIMATES OF PROPOSED ACTION

### Costs or Savings to State Agencies

Overall it is anticipated that the proposal would have no net costs and would allow state agencies and employers that use lab hoods to incur a significant savings. The proposal would require insignificant to no costs to be incurred for existing lab hoods. These costs would be more than offset by the significant energy savings that some agencies and employers may voluntarily take advantage of when under the proposal their lab hoods could be fitted with an automatic airflow control system that would reduce the airflow when the hood is unoccupied.

Based on information provided by the petitioner, it is estimated that roughly 85,000 hoods are in operation in California. Approximately 35% of these hoods are in state facilities, most of which are UC/CSU campuses. Another 35% of these hoods are located at community colleges, water quality laboratories, and high schools. The remaining 30% are located in the private sector, namely schools and biotech, chemical, or pharmaceutical companies.

Regarding the voluntary or permissive requirements of reducing the airflow into the lab hood as proposed in subsection (e)(2), significant cost savings can be realized if laboratory hoods are fitted with automatic airflow control systems as allowed by the proposed amendments. Assuming each lab hood consumes an average of 1,000 CFM and each CFM of single-pass air costs up to \$5 per year, each lab hood has an annual energy cost of \$5,000. It is estimated by the petitioner that lab hoods operated under this proposal could reduce energy airflow by 30–40% realizing an annual savings up to \$2,000. During the first year, this savings is likely to offset or exceed the initial installation, testing and recordkeeping expenses associated with the proposal since the petitioner knows of at least 2,000 lab hoods that are currently equipped with the technology and would take advantage of these energy savings once the standard becomes effective resulting in a minimum \$4 million savings in the first year. Thereafter, energy cost savings will continue up to \$2,000 per year for the thousands of hoods expected to take advantage of these significant energy savings. Based on these estimates, California public and private

sector workplaces that utilize these setback type lab hoods would have an overall savings in the millions of dollars per year in energy costs.

The petitioner states that nearly all hoods installed within the past 10 to 15 years have quantitative airflow monitors or alarm systems that meet the proposed requirement in subsection (e)(3). The petitioner did a phone survey of state lab facilities and estimates that greater than 85% of those facilities already have monitors installed. Projecting that estimate to all hoods, less than 13,000 hoods would be affected by the requirement to install a quantitative monitor. Given that the average hood has an estimated lifespan of about 20 years, it is believed that this small percentage of older hoods would even be smaller when the proposal eventually phases into effect. Based on data provided by advisory committee members, it is estimated that the average one-time cost is approximately \$221 for the monitor or alarm system, including installation. Using the 13,000 older hood estimate, the total statewide estimated cost would be less than \$3 million. This cost is insignificant relative to the overall cost of hoods, along with operation and maintenance costs. A basic hood costs around \$5,000, and energy costs used to run the hood are approximately \$5,000 a year. Additionally, there are labor and administrative costs associated with operating and maintaining the hood. Thus the cost of a quantitative airflow monitor or alarm system are insignificant in comparison and would be offset should employers take advantage of the automatic airflow control system, permitted in the proposal, which would reduce the amount of airflow into the hood when the hood is unoccupied.

Most employers are already complying with the proposed amendments to subsection (e)(3) that would require qualitative airflow measurements be performed annually. This measurement/test is already required upon installation, after repairs/renovations, or the addition of large equipment into the hood. An exception to this annual measurement/test is included, reducing the frequency to every two years if a calibration and maintenance program is in place for the quantitative airflow monitor or alarm system. If there are employers who are not already conducting such tests, the extra cost associated with this additional testing requirement averages approximately \$82, including equipment and labor. It should be noted that annual testing of a hood's ventilation rate is already required under Section 5143(a)(5). The requirement to measure the hoods ability to maintain an inward airflow at all openings of the hood on an annual basis in Section 5154.1(e)(3) could easily, and cost effectively, be incorporated into the already required annual test of ventilation rates. Therefore, it is estimated that this \$82 annual cost is already being

performed to comply with existing Title 8 requirements, manufacturer recommendations and national consensus standards.

The added training requirements prescribed in new subsection (f) of the proposal are not anticipated to add any additional costs to employers, as similar or closely related training would already be required under the employer's Injury Illness and Prevention Program specified in Section 3203 of the General Industry Safety Orders.

**Impact on Housing Costs**

The Board has made an initial determination that this proposal will not significantly affect housing costs.

**Impact on Businesses**

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

**Cost Impact on Private Persons or Businesses**

See "Costs or Savings to State Agencies."

**Costs or Savings in Federal Funding to the State**

The proposal will not result in costs or savings in federal funding to the state.

**Costs or Savings to Local Agencies or School Districts Required to be Reimbursed**

No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate."

**Other Nondiscretionary Costs or Savings Imposed on Local Agencies**

See "Costs or Savings to State Agencies."

**DETERMINATION OF MANDATE**

The Occupational Safety and Health Standards Board has determined that the proposed standard does not impose a mandate requiring reimbursement by the state pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendment will not require local agencies or school district to incur additional costs in complying with the proposal. Furthermore, this regulation does not constitute a "new program or higher level of service of an existing program with the meaning of Section 6 of Article XIII B of the California Constitution."

The California Supreme Court has established that a "program" within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46.)

The proposed standard does not require local agencies to carry out the governmental function of providing services to the public. Rather, the standard requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed standard does not in any way require local agencies to administer the California Occupational Safety and Health program. (See *City of Anaheim v. State of California* (1987) 189 Cal.App.3d 1478.)

The proposed standard does not impose unique requirements on local government. All employers-state, local and private-will be required to comply with the prescribed standards.

**EFFECT ON SMALL BUSINESSES**

The Board has determined that the proposed amendment may affect small businesses. However, no economic impact is anticipated. See "Costs or Savings to State Agencies."

**ASSESSMENT**

The adoption of the proposed amendments to this standard will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

**REASONABLE ALTERNATIVES CONSIDERED**

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

**2. TITLE 8: GENERAL INDUSTRY SAFETY ORDERS**

Chapter 4, Subchapter 7, Article 107,  
Section 5155

**Airborne Contaminants**

**INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW**

Section 5155, Airborne Contaminants, establishes minimum requirements for controlling employee exposure to specific airborne contaminants. This section specifies several types of airborne exposure limits, requirements for control of skin and eye contact, workplace environmental monitoring through measurement or calculation, and medical surveillance requirements. California periodically amends the airborne contaminants table (Table AC-1) in this standard to keep it consistent with current information regarding harmful effects of exposure to these substances and other new substances not listed. The standard was last revised in 2004. In this revision, the

substances chosen for amendment were taken from the 1997, 1998, 1999, 2000, and the 2001 editions of the Threshold Limit Values (TLVs) published by the American Conference of Governmental Industrial Hygienists (ACGIH).

Some substances addressed in this proposal were originally included in a proposal heard by the Board at its December 18, 2003, public hearing. The Permissible Exposure Limits (PELs) for those substances were originally proposed to be below the ACGIH TLV. Because of employer and manufacturer concerns with the original proposals for the substances, they were withdrawn and considered at a special public meeting convened by the Division of Occupational Safety and Health (Division) on March 30, 2004. In some cases, the PELs originally proposed were changed based upon information received in this additional review.

This proposed rulemaking action also contains nonsubstantive, editorial, reformatting of subsections, and grammatical revisions. These nonsubstantive revisions are not all discussed in this Informative Digest. However, these proposed revisions are clearly indicated in the regulatory text in underline and strikeout format.

The exposure limits of the following substances are proposed to be lowered:

Acetone  
Beryllium, and beryllium compounds as Be  
2-Butoxyethanol  
Crotonaldehyde (proposed to be lowered and changed to a Ceiling limit)  
Epichlorohydrin  
Glutaraldehyde  
Hexachlorobenzene  
Methyl bromide  
Methyl 2-cyanoacrylate  
Methyl methacrylate  
Molybdenum, soluble compounds, as Mo  
Propylene oxide

Exposure limits for the following substances are proposed to be added to Table AC-1 (new substances):

Bis (Dimethylaminoethyl) ether (DMAEE)  
1-Hexene 1,3,5-Triglycidyl-s-triazinetriene  
Vinylidene fluoride

A short-term exposure limit (STEL) is proposed to be added for the following substance in Table AC-1:

Methyl methacrylate

The short-term exposure limits are proposed to be deleted for the following substances in Table AC-1:

Beryllium (the text of the associated footnote is also proposed to be deleted)

Methyl 2-cyanoacrylate

Skin notations are proposed for:

Crotonaldehyde

n-Hexane

It is proposed to delete the Chemical Abstract Registry Number for coal tar pitch volatiles and to modify the footnote for coal tar pitch volatiles.

In addition to a proposed lowering of the PEL noted above, it is proposed to add two footnotes for glutaraldehyde.

The effect of these amendments is to reduce the risk of material impairment of health or functional capacity for employees exposed to the above substances.

All proposed changes to Section 5155 are considered at least as effective as or more stringent than the federal OSHA requirements in Title 29, Code of Federal Regulations (29 CFR) section 1910.1000, Airborne contaminants.

#### COST ESTIMATES OF PROPOSED ACTION

The subject proposal is a revision of an existing standard which specifies airborne exposure limits for chemical substances. The primary users of these substances are the private industrial and chemical sectors. The exposure limits proposed are consistent with recommendations of the American Conference of Governmental Industrial Hygienists or with scientific findings of which professional health and safety staff and consultants of these entities should be aware. Many of these entities already seek to control employee exposures to these levels in the interest of business continuity and minimization of tort and workers compensation liability. Therefore, the additional expenditures for these entities to comply with the revised standard are estimated to be insignificant to none.

#### Costs or Savings to State Agencies

No significant costs or savings to state agencies is anticipated to result as a consequence of the proposed action.

#### Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

#### Impact on Businesses

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

#### Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impact that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.



**Costs or Savings to Local Agencies or School Districts Required to be Reimbursed**

No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate."

**Other Nondiscretionary Costs or Savings Imposed on Local Agencies**

This proposal does not impose significant nondiscretionary costs or savings on local agencies.

**DETERMINATION OF MANDATE**

The Occupational Safety and Health Standards Board has determined that the proposed standard does not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, the standard does not constitute a "new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

The California Supreme Court has established that a "program" within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46.)

The proposed standard does not require local agencies to carry out the governmental function of providing services to the public. Rather, the standard requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed standard does not in any way require local agencies to administer the California Occupational Safety and Health program. (See *City of Anaheim v. State of California* (1987) 189 Cal.App.3d 1478.)

The proposed standard does not impose unique requirements on local governments. All state, local and private employers will be required to comply with the prescribed standards.

**EFFECT ON SMALL BUSINESSES**

The Board has determined that the proposed amendments may affect small businesses. However, no significant adverse economic impact is anticipated.

**ASSESSMENT**

The adoption of the proposed amendments to this standard will neither create nor eliminate jobs in the

State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

**REASONABLE ALTERNATIVES CONSIDERED**

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

A copy of the proposed changes in STRIKEOUT/UNDERLINE format is available upon request made to the Occupational Safety and Health Standard Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274-5721. Copies will also be available at the Public Hearing.

An INITIAL STATEMENT OF REASONS containing a statement of the purpose and factual basis for the proposed actions, identification of the technical documents relied upon, and a description of any identified alternatives has been prepared and is available upon request from the Standards Board's Office.

Notice is also given that any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consideration. It is requested, but not required, that written comments be submitted so that they are received no later than September 9, 2005. The official record of the rulemaking proceedings will be closed at the conclusion of the public hearing and written comments received after 5:00 p.m. on September 15, 2005, will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments should be mailed to the address provided below or submitted by fax at (916) 274-5743 or e-mailed at [oshsb@hq.dir.ca.gov](mailto:oshsb@hq.dir.ca.gov). The Occupational Safety and Health Standards Board may thereafter adopt the above proposal substantially as set forth without further notice.

The Occupational Safety and Health Standards Board's rulemaking file on the proposed actions including all the information upon which the proposals are based are open to public inspection Monday through Friday, from 8:30 a.m. to 4:30 p.m. at the Standards Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833.

The full text of proposed changes, including any changes or modifications that may be made as a result of the public hearing, shall be available from the Executive Officer 15 days prior to the date on which the Standards Board adopts the proposed changes.



Inquiries concerning either the proposed administrative action or the substance of the proposed changes may be directed to Keith Umemoto, Executive Officer, or Michael Manieri, Principal Safety Engineer, at (916) 274-5721.

You can access the Board's notice and other materials associated with this proposal on the Standards Board's homepage/website address which is <http://www.dir.ca.gov/oshsb>. Once the Final Statement of Reasons is prepared, it may be obtained by accessing the Board's website or by calling the telephone number listed above.

## TITLE 9. DEPARTMENT OF MENTAL HEALTH

### ACTION

Notice of Proposal to Adopt Regulations

### SUBJECT

Medi-Cal Specialty Mental Health Services

### PUBLIC PROCEEDINGS

Notice is hereby given that the California Department of Mental Health (DMH) proposes to adopt the regulatory action described below after considering all comments, objections, or recommendations regarding the proposed regulatory action.

### WRITTEN COMMENT PERIOD

Any interested person, or their authorized representative, may submit comments relevant to the action described in this notice. Any written statements, arguments, or contentions must be received by the Office of Regulations, California Department of Mental Health, 1600 Ninth Street, Room 150, Sacramento, CA 95814, by 5:00 p.m. on **September 16, 2005**. It is requested but not required that written statements sent by mail or hand-delivered be submitted in triplicate.

Comments may be transmitted via facsimile 916-654-2440 or electronic mail [DMH.Regulations@dmh.ca.gov](mailto:DMH.Regulations@dmh.ca.gov) and must be received before 5:00 p.m. on the last day of the public comment period. All comments, including electronic mail or facsimile transmissions, should include the author's name and U.S. Postal Service mailing address in order for DMH to provide copies of any notices for proposed changes in the regulation text on which additional comments may be solicited.

### PUBLIC HEARING

DMH will hold a public hearing commencing at 1:30 p.m. on September 16, 2005, in the Auditorium at 744 P Street, Sacramento, CA. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in

the Informative Digest/Policy Statement Overview. DMH requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

Reasonable accommodation or sign language interpreting services at a public hearing will be provided upon request. Such request should be made no later than 21 days prior to the close of the written comment period.

### WEB SITE

This public notice, the regulation text, the initial statement of reasons, and other related documents, are available from the DMH world wide web site [http://www.dmh.ca.gov/Admin/regulations/rulemaking\\_pkgs.asp](http://www.dmh.ca.gov/Admin/regulations/rulemaking_pkgs.asp)

### CONTACT

Inquiries concerning the rulemaking process described in this notice may be directed to Steve Appel, Chief, Office of Regulations, by electronic mail [DMH.Regulations@dmh.ca.gov](mailto:DMH.Regulations@dmh.ca.gov) or telephone 916-654-4027. The backup contact person is Nancy Christenson, Office of Legal Services at 916-654-2319. Inquiries concerning the substance of the rulemaking may be directed to Rita McCabe-Hax, Chief, Medi-Cal Policy and Support at 916-651-9370.

Hearing impaired persons wishing to utilize the California Relay Service may do so at no cost. The telephone numbers for accessing this service are: 800-735-2929, if you have a TDD; or 800-735-2922, if you do not have a TDD.

### HISTORY

Three Notices of Proposal to Adopt Permanent Regulations were published in the California Regulatory Notice Register on November 14, 1997, November 6, 1998 and December 20, 1999. The public comment periods ended on January 15, 1998, December 21, 1998, and December 20, 1999, respectively. The Department was unable to complete the rulemaking process.

As a result of extensive public comment, it was determined that the best course of action would be to adopt new permanent regulations. Therefore, the Department is re-issuing the Notice of Proposal to Adopt Permanent Regulations. The emergency regulations identified above are in effect until June 30, 2006, or until the permanent regulations are adopted, whichever comes first (Welfare and Institutions Code, Section 5775(f)).

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law (Welfare and Institutions Code Section 5775 (f)) provides regulatory authority for implementation of Section 1810.100, et seq., Title 9 California

Code of Regulations. It is intended that, upon the adoption of the new regulations put forth in this package, existing regulations in Title 9 Section 1810.100, et seq. will be replaced.

Assembly Bill (AB) 757 (Chapter 633, Statutes of 1994) enacted laws dealing with the provision of specialty mental health services to California's Medicaid (Medi-Cal) program beneficiaries. The statute provides for the phased implementation of managed mental health care through fee-for-service or capitated rate contracts with mental health plans (MHPs). It designates the Department of Mental Health, to the extent permitted by federal law, as the state agency responsible for developing and implementing MHPs. The design of managed care for California's Medi-Cal mental health program includes three steps, to be phased in over several years.

The first phase was the Medi-Cal psychiatric inpatient hospital services consolidation, as authorized by statute and based on the authority granted by a federal freedom of choice waiver under Section 1915 (b) of the Social Security Act, effective March 17, 1995. The Department adopted regulation sections 1700 through 1799 inclusively, in Chapter 10, in Division 1, Title 9, California Code of Regulations (CCR), entitled "Medi-Cal Psychiatric Inpatient Hospital Services."

This waiver was renewed and modified on September 5, 1997, to include the second phase, "Medi-Cal Specialty Mental Health Services Consolidation," with implementation beginning November 1, 1997. The Centers for Medicare and Medicaid Services (CMS) approved the renewal, modification and renaming of this waiver as the Medi-Cal Specialty Mental Health Services Consolidation waiver program on September 5, 1997, a second renewal on November 16, 2000, and a third renewal on April 24, 2003. The waiver program as approved April 24, 2003 was in effect through April 27, 2005. The State's fourth waiver renewal was approved on April 26, 2005, to be in effect April 1, 2005 through March 31, 2007. CMS may approve additional renewals for subsequent two-year periods.

The Department will permanently adopt regulation sections 1810.100 through 1850.535 inclusively, in a new Chapter 11, in Title 9, Division 1, CCR, entitled "Medi-Cal Specialty Mental Health Services." This includes psychiatric inpatient hospital services consistent with Chapter 10, and new standards for additional services including rehabilitative mental health services, targeted case management, psychiatrist services, psychologist services, EPSDT supplemental specialty mental health services, and psychiatric nursing facility services. Chapter 11 implements, interprets and makes specific the requirements brought about by the changes in the law cited above for the second phase of

the Medi-Cal managed mental health care program. The final implementation phase will be capitation, to be phased in at a later date.

#### **SUBCHAPTER 1**

Article 1, Sections 1810.100 through 1810.110, describes laws that affect the Medi-Cal Specialty Mental Health Services Consolidation program. Article 2, Sections 1810.201 through 1810.254, defines words that are used in these regulations to make sure their meanings are clear. Article 3, Sections 1810.305 through 1810.385, explains that the MHP needs to submit an implementation plan, which services are covered, how the Department and the MHPs work together, how to inform beneficiaries regarding available services and beneficiary rights. Article 4, Sections 1810.405 through 1810.440, describes how beneficiaries, even if they speak a language other than English, obtain quality services.

#### **SUBCHAPTER 2**

Article 1, Sections 1820.100 through 1820.120, describes how MHPs and the Department determine how much to pay for psychiatric inpatient hospital services.

Article 2, Sections 1820.200 through 1820.230, describes how psychiatric inpatient hospital services are delivered, when the MHP has to cover hospital services, and what hospitals have to do to get paid by the MHP.

#### **SUBCHAPTER 3**

Section 1830.100 explains that services in this subchapter are services other than psychiatric inpatient hospital services. Articles 1 and 2, Sections 1830.105 through 1830.250, explain when the MHP has to cover services by psychiatrists and other mental health service providers. These articles also cover when the MHP can require the provider get MHP approval before the provider provides the service to a beneficiary, how providers get paid, and when beneficiaries may choose their own providers and when the MHP may choose the provider. There is a special rule for beneficiaries under 21 years of age, which means these beneficiaries may receive or be eligible for additional services.

#### **SUBCHAPTER 4**

Article 1, Sections 1840.100 through 1840.115, explains in general how MHPs can get federal money. Article 2, Sections 1840.205 through 1840.215, explains how the MHP gets federal money for hospital services the MHP has provided to beneficiaries. The MHP can get federal money only if the MHP follows the rules in this article. These rules apply to the types of hospitals and the kinds of services the beneficiary might be getting at the same time the beneficiary is in

the hospital. Article 3, Sections 1840.302 through 1840.374, explains how the MHP gets federal money for different services, from different kinds of providers. These guidelines are not covered in other regulations. The MHP can get federal money only if the MHP follows the rules in this article about when and where the services are given and who delivers the services.

## SUBCHAPTER 5

Sections 1850.205 through 1850.535 explain how MHPs must handle problems with beneficiaries, providers, other MHPs and Medi-Cal managed care plans.

### AUTHORITY

Sections 14680, Welfare and Institutions Code.

### REFERENCE

Sections 1340 et seq., Health and Safety Code; Sections 5520, 5705, 5718, 5720, 5724, 5775, 5776, 5777, 5777.5, 5778, 5779, 5780, 5781, 10950–10965, 11400, 14000, 14005, 14007.5, 14011, 14021.3, 14021.4, 14021.5, 14104.3, 14105.98, 14132, 14142, 14145, 14640, 14680, 14681, 14682, 14683, 14684, 14685, and 16115, Welfare and Institutions Code; Title 42, Sections 1396d(a), 1396d(i), 1396d(r), and 1396r-4, United States Code; Title 42, Code of Federal Regulations, Part 438; Title 42, Code of Federal Regulations, Sections 431.244, 433.51, 455.18; and *T.L. v. Belshé*, United States District Court, Eastern District of California, Case No. CV-S-93-1782 LKK PAN.

### AUTHORITY

Sections 14680, Welfare and Institutions Code.

### REFERENCE

Sections 1340 et seq., Health and Safety Code; Sections 5520, 5705, 5718, 5720, 5724, 5775, 5776, 5777, 5777.5, 5778, 5779, 5780, 5781, 10950–10965, 11400, 14000, 14005, 14007.5, 14011, 14021.3, 14021.4, 14021.5, 14104.3, 14105.98, 14132, 14142, 14145, 14640, 14680, 14681, 14682, 14683, 14684, 14685, and 16115, Welfare and Institutions Code; Title 42, Sections 1396d(a), 1396d(i), 1396d(r), and 1396r-4, United States Code; Title 42, Code of Federal Regulations, Part 438; Title 42, Code of Federal Regulations, Sections 431.244, 433.51, 455.18; and *T.L. v. Belshé*, United States District Court, Eastern District of California, Case No. CV-S-93-1782 LKK PAN.

### PRE-NOTICE PUBLIC DISCUSSIONS

The Department involved members of the public in discussions prior to publication of this notice. The previously proposed rulemaking, in which this rule-

making is based, incorporated extensive public comment and input from stakeholders.

### MATERIAL INCORPORATED BY REFERENCE

American Psychiatric Association: *Diagnostic and Statistical Manual of Mental Disorders*, Fourth Edition, Washington, D.C., American Psychiatric Association, 1994. A copy may be purchased from the Division of Publications and Marketing, American Psychiatric Association, 1400 K Street, N.W., Washington, D.C., 20005. A copy may be examined at the Department of Mental Health, Managed Care Implementation, 1600 9th Street, Room 100, Sacramento.

Publication 15-1, Medicare Provider Reimbursement Manual, PB 97-954800. A copy may be purchased through the National Technical Information Service, Springfield, Virginia, by calling (703) 605-6060. The online version may be downloaded from the CMS website at [http://www.cms.hhs.gov/manuals/pub151/pub\\_15\\_1.asp](http://www.cms.hhs.gov/manuals/pub151/pub_15_1.asp)? Also refer to Section 51516(a)(2) of Title 22, CCR.

### FISCAL IMPACT ESTIMATE

**A. Fiscal Effect on Local Government:** Funding in the amount of \$227,167,000 is included in the Budget Act of 2005 (Chapter 38, Statutes of 2005) to reimburse the local mental health plans for the provision of mental health treatment services. Most of this funding can be used by local government (mental health plans) to provide the match requirement for Title XIX (Medi-Cal).

Additional expenditures in the current fiscal year are not reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code because this regulation is issued only in response to a specific request from the counties contracting with the Department of Mental Health pursuant to Section 5775 et seq., W&I Code, which are the only local entities affected.

The Budget Act of 2005 includes total expenditures of \$446,584,000 (\$227,167,000 General Fund and \$219,417,000 in Federal Financial Participation).

**B. Fiscal Effect on State Government:** The Budget Act of 2005 includes a total expenditure \$446,584,000 (\$227,167,000 General Fund and \$219,417,000 in Federal Financial Participation) that will be allocated to the local mental health plans to support mental health treatment services for Medi-Cal eligible beneficiaries.



**C. Fiscal Effect on Federal Funding of State Programs:** The Budget Act of 2005 includes funding in the amount of \$219,417,0000 in Federal Financial Participation.

**D. Fiscal Effect on Private Persons or Businesses Directly Affected:** The businesses directly affected by these regulations include managed care organizations and other entities that may have an opportunity to compete for contracts if county mental health departments elect not to accept contracts. The fiscal effect on these entities is indeterminate; since it cannot be determined whether an opportunity to contract will be available or how successful a business would be in obtaining and operating such a contract. There will be no fiscal impact on Medi-Cal beneficiaries, the persons directly affected by these regulations, since the regulations do not change current Medi-Cal laws and/or regulations regarding beneficiaries' fiscal obligations under the program.

#### DETERMINATIONS

The Department has determined that the regulations would not impose a mandate on local agencies or school districts, nor are there any costs for which reimbursement is required by Part 7 (commencing with section 17500) of Division 4 of the Government Code.

The Department has determined that the regulations would not impose other non-discretionary cost or savings on local agencies.

The Department has determined that the regulations would not have a significant effect on housing costs.

The Department has determined that the regulations would not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states.

The Department has determined that the regulations would not significantly affect the following:

The creation or elimination of jobs within the State of California.

The creation of new businesses or the elimination of existing businesses within the State of California.

The expansion of businesses currently doing business within the State of California.

The Department finds that it is necessary for the health, safety, or welfare of the people of this state that regulation sections 1810.310, 1810.341, 1810.375, 1810.380, 1810.385, 1810.438, 1820.215, 1830.250, 1840.105, and 1840.316, which require reports, apply to businesses.

The Department has determined that these regulations will affect small businesses (Medi-Cal providers) in California because they establish new requirements for participation in the Medi-Cal program for the

delivery of specialty mental health services. The Medi-Cal Specialty Mental Health Services program does not impose a mandate on hospitals and mental health professionals to participate, nor does it impose a mandate on MHPs to allow any willing hospital and mental health professional to affiliate with the MHP. Hospitals and mental health professionals who affiliate with the MHP may see either an increase or a decrease in the number of Medi-Cal beneficiaries they treat and in Medi-Cal revenues, depending on the terms of the specific relationship they establish with each MHP. Hospitals that do not affiliate with the MHP may provide psychiatric inpatient hospital services to Medi-Cal beneficiaries in emergency situations and at rates established by these regulations, which will result in an indeterminate decrease in Medi-Cal revenues. Mental health professionals who do not affiliate with the MHP may continue to participate in the fee-for-service Medi-Cal program; but may provide only those specialty mental health services not covered by the MHPs; which is likely to result in a decrease in Medi-Cal beneficiaries served and Medi-Cal revenues.

#### AVAILABILITY OF STATEMENT OF REASONS AND REGULATION TEXT

DMH has prepared and has available for public review an initial statement of reasons for the regulations, all the information upon which the regulations are based, and the text of the regulations. These documents are posted on the DMH web site. A copy of the initial statement of reasons and the text of the regulations are available upon request to the Office of Regulations at the address noted above. This address will be the location of public records, including reports, documentation, and other material related to the regulations. In addition, when completed, the final statement of reasons will be available.

#### AVAILABILITY OF THE CHANGED OR MODIFIED REGULATION TEXT

After considering all timely and relevant comments received, DMH may adopt the regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text, with changes clearly indicated, shall be made available to the public for at least 15 days prior to the date on which DMH adopts the regulations. Any modifications will also be posted on the DMH web site. Requests for copies of any modified regulations should be directed to Steve Appel, Office of Regulations, at the address indicated above.

#### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), DMH must determine that no alternative considered by DMH would be more effective in



carrying out the purpose for which the action was taken or would be as effective and less burdensome to affected private persons than this action.

## TITLE 10. DEPARTMENT OF INSURANCE

### NOTICE OF PROPOSED ACTION AND NOTICE OF PUBLIC HEARING

RH05044124

#### SUBJECT OF HEARING

A hearing will be held regarding proposed changes to the fair claims settlement practices regulations found at California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5, Sections 2695.1 through 2695.14.

#### AUTHORITY AND REFERENCE

The Insurance Commissioner proposes to adopt, amend and repeal specified portions of the subject regulations under the authority of Insurance Code Sections 790.10, 12921, and 12926. These proposed changes to the regulations will implement, interpret and make specific provisions of Insurance Code Section 790.03(h).

#### HEARING DATE AND LOCATION

Notice is hereby given that public hearings will be held to permit all interested persons the opportunity to present statements or arguments, orally or in writing, with respect to these regulations as follows:

Date and time:	September 21, 2005 10:00 am
Location:	45 Fremont Street 22nd Floor Hearing Room San Francisco, CA 94105
Date and time:	September 22, 2005 10:00 am
Location:	Department of Insurance Hearing Room Ronald Reagan State Office Building 300 South Spring Street, 1st Floor Los Angeles, California 90013

The hearings will continue on the dates noted above until all testimony has been submitted or 4:00 p.m., whichever is earlier.

#### PRESENTATION OF WRITTEN AND/OR ORAL COMMENTS; CONTACT PERSONS

All persons are invited to present oral and/or written comments at the scheduled public hearings. Written comments not presented should be addressed to the following contact person:

Risa Salat-Kolm, Senior Staff Counsel  
California Department of Insurance  
45 Fremont Street, 21st Floor  
San Francisco, CA 94105  
Telephone: (415) 538.4127

Questions regarding the hearing, comments, or the substance of the proposed action should be addressed to the above contact person. If she is unavailable, inquiries may be addressed to the following backup contact person:

Cindy A. Ossias, Senior Staff Counsel  
45 Fremont Street, 21st floor  
San Francisco, CA 94105  
Telephone: (415) 538.4124

#### DEADLINE FOR WRITTEN COMMENTS

All written materials, unless submitted at the hearings, must be received by the Insurance Commissioner, addressed to one of the contact persons at her respective address listed above, no later than **5:00** on September 22, 2005. Any written materials received after that time will not be considered.

#### COMMENTS TRANSMITTED BY E-MAIL OR FACSIMILE

The Commissioner will accept written comments transmitted by e-mail provided they are sent to the following e-mail address: [salat-kolmr@insurance.ca.gov](mailto:salat-kolmr@insurance.ca.gov). The Commissioner will also accept written comments transmitted by facsimile provided they are sent to the following facsimile number: (415) 904-5490. Comments sent to other e-mail addresses or other facsimile numbers will not be accepted. **Comments sent by e-mail or facsimile are subject to the deadline for written comments set forth above.**

#### ACCESS TO HEARING ROOMS

The facilities to be used for the public hearing are accessible to persons with mobility impairments. Persons with sight or hearing impairments are requested to notify the contact person (listed below) for these hearings in order to make special arrangements, if necessary.

#### INFORMATIVE DIGEST

#### SUMMARY OF EXISTING LAW AND POLICY STATEMENT OVERVIEW

California Insurance Code Section 790.03(h) sets forth sixteen claims settlement practices which, if knowingly committed or performed with such fre-

quency as to indicate a general business practice, are held to be unfair claims settlement practices. The Commissioner is authorized under Insurance Code Section 790.10 to promulgate rules and regulations, and amendments and additions thereto, as are necessary to administer Section 790.03(h) and related sections. The original Fair Claims Settlement Practices Regulations became effective in January of 1993, with amendments becoming effective in May of 1997 and October of 2004. The current regulations may be found at California Code of Regulations, Title 10, Section 5, Subchapter 7.5, Sections 2695.1 through 2695.13. The Commissioner believes that additional modifications to the regulations are necessary to effectively administer Insurance Code Section 790.03(h).

#### EFFECT OF PROPOSED ACTION

The major effects of the regulations are as follows:

Section 2695.1(c)—Applicability of Regulations to Surety Claims (Repeal/Adopt)

Existing subsection 2695.1(c) specifies, because of the unique three-party relationship between the surety, beneficiary and principal, only some of the subsections apply to the handling or settling of claims brought under surety bonds. The proposed change is to repeal the subsection and adopt language that recognizes both the unique three-party relationship and the fact that the processing of surety claims is subject to the Unfair Practices Act (Insurance Code Section 790 et seq.).

Section 2695.2(s)—Definition of Proof of Claim (Amend)

This subsection is amended to include in the definition of “proof of claim” evidence or documentation that supports the claim that was received from sources other than the claimant.

Section 2695.7(g)(7)—Unreasonably Low Settlement Offers (Amend)

In determining whether a claims settlement offer is unreasonably low, this subsection, as amended, recognizes the difference in claims negotiations depending on whether the claimant is represented by counsel.

Section 2695.7(r)—Ensuring the Accuracy of Data (Adopt)

The proposed subsection specifies that insurers must take reasonable steps to ensure the accuracy of data used in evaluating and settling claims. Although insurers are permitted to use third party vendor services to determine damages, they are required by law to offer adequate, accurate settlements no matter what information and resources are used to establish damages.

Section 2695.8(b)—Adjusting of Third Party Total Loss Auto Claims (Amend)

This subsection is amended to clarify that the evaluation of auto claims should be consistent regardless of whether the claim is made by a first or third party claimant.

Section 2695.8(j)—Depreciation of Labor in First Party Partial Loss Auto Claims (Adopt)

This newly adopted subsection states that, in a first party partial loss claim, the expense of labor to repair or replace the damage is not subject to depreciation unless the insurance contract clearly and unambiguously permits the depreciation of the expense of labor.

Section 2695.8(k)—Payment of Towing and Storage Charges (Re-letter and Amend)

This subsection is amended to clarify that insurers shall reimburse the insured for those reasonable fees incurred in having the loss vehicle towed from the accident scene and stored thus protecting the vehicle from further damage. The subsection is also amended so that third parties are similarly treated while recognizing the differences between first and third party claims.

Section 2695.9(f)(1)—Depreciation, Betterment and Salvage in Residential and Commercial Property Claims (Adopt)

This new subsection clarifies that, although property may depreciate, the cost of the labor used to replace that property is not subject to depreciation.

Section 2695.10(b)—Time Period for Surety to Accept or Deny Claim (Amend)

This subsection is amended to reduce the time from 60 to 40 days for a surety to accept or deny a claim and requires the surety to explain to the claimant in writing why the claim has been rejected or denied.

Section 2695.10(b)(1)—Principal’s Absence or Non-Cooperation (Adopt)

This new subsection states that a principal’s absence or non-cooperation does not excuse a surety insurer’s unreasonable delay in accepting or denying a claim.

Section 2695.10(b)(2)—Principal’s Protest or Denial of Liability (Adopt)

This new subsection specifies that a surety shall not deny a claim based solely upon the principal’s denial of liability.

Section 2695.10(g)—Notice of Statute of Limitations (Adopt)

This new subsection specifies that a surety insurer shall provide the claimant with written notice of any applicable statute of limitations no less than 60 days prior to the statute’s expiration date.

Section 2695.10(h)—No Unreasonably Low Settlement Offers (Adopt)

This new subsection states that no surety insurer shall attempt to settle a claim by making unreasonably low settlement offers and lists factors the Commissioner shall consider in determining whether a settlement offer is unreasonably low.

Section 2695.12(a)—Factors Considered in Determining Penalties (Amend)

This subsection is amended to reflect that the Commissioner shall consider the factors described in the subsection to determine appropriate penalties and not whether a violation of the regulations has occurred.

Section 2695.12(a)(7)—Number of Claims Reviewed by Department (Amend)

This subsection is amended to clarify that, in order to determine appropriate penalties, the Commissioner shall consider the number of claims where violations have been found against the number of claims examined by the Department during the relevant time period.

#### **MANDATES ON LOCAL AGENCIES OR SCHOOL DISTRICTS**

The proposed regulations do not impose any mandate on local agencies or school districts. There are no costs to local agencies or school districts for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement.

#### **COST OR SAVINGS TO STATE/LOCAL AGENCY OR SCHOOL DISTRICT OR IN FEDERAL FUNDING**

The Commissioner has determined that there will be no cost or savings, discretionary or nondiscretionary, to any local agency, state agency or school district from the proposed regulations, and that the proposed regulation will not affect federal funding to the State.

#### **ECONOMIC IMPACT ON BUSINESSES AND THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE**

The Commissioner has made an initial determination that the proposed amendments may have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The types of businesses that may be affected are insurers and claims agents as defined under the current regulations. There will be additional record-keeping requirements imposed upon certain insurers that have not previously been subject to these regulations. The Commissioner has not considered proposed alternatives that would lessen any adverse economic impact on business and invites interested parties to submit proposals. Submissions may include the following considerations:

- (i) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses.

- (ii) Consolidation or simplification of compliance and reporting requirements for businesses.
- (iii) The use of performance standards rather than prescriptive standards.
- (iv) Exemption or partial exemption from the regulatory requirements for businesses.

#### **POTENTIAL COST IMPACT ON PRIVATE PERSONS OR ENTITIES/BUSINESSES**

The Commissioner is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### **FINDING OF NECESSITY**

The Commissioner finds that it is necessary for the welfare of the people of the state that the regulations apply to businesses.

#### **EFFECT ON JOBS AND BUSINESSES IN CALIFORNIA**

The Commissioner is required to assess any impact the regulations may have on the creation or elimination of jobs in the State of California, the creation of new businesses, the elimination of new businesses, and the expansion of businesses currently operating in the state. The Commissioner does not foresee that the proposed regulations will have an impact on any of the above but invites interested parties to comment on this issue.

#### **IMPACT ON HOUSING COSTS**

The matters proposed herein will have no significant effect on housing costs.

#### **ALTERNATIVES**

The Commissioner must determine that no reasonable alternative considered by the Commissioner or that has otherwise been identified and brought to the attention of the Commissioner would be more effective in carrying out the purposes for which the regulations are imposed or would be as effective as and less burdensome to affected private persons than the proposed regulations. The Commissioner invites public comment on alternatives to the regulations.

#### **IMPACT ON SMALL BUSINESS**

The Commissioner has determined that the proposed amendments may affect small businesses to the extent independent insurance adjusters (as opposed to those who are insurance company employees) qualify as small businesses. These individuals and entities will be required to comply with the applicable amendments.

#### **COMPARABLE FEDERAL LAW**

There are no existing federal regulations or statutes comparable to the proposed regulations.

## TEXT OF REGULATIONS AND INITIAL STATEMENT OF REASONS

The Department has prepared an initial statement of reasons that sets forth the reasons for the proposed changes to the regulations. Upon **written or e-mailed** request, the initial statement of reasons will be made available for inspection and copying. Written requests for the initial statement of reasons or questions regarding this proceeding should be directed to the contact person listed above. Upon **written or e-mailed** request, the final statement of reasons will be made available for inspection and copying once it has been prepared. Written requests for the final statement of reasons should be directed to the contact person listed above.

The file for this proceeding, which includes a copy of the proposed regulations, the statement of reasons, the information upon which the proposed action is based, and any supplemental information, including any reports, documentation and other materials related to the proposed action that is contained in the rulemaking file, is available for inspection and copying **by prior appointment** at 45 Fremont Street, 21st Floor, San Francisco, California 94105, between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday.

## AUTOMATIC MAILING

A copy of this notice, including the informative digest, which contains the general substance of the proposed regulations, will automatically be sent to all persons on the Insurance Commissioner's mailing list.

## WEBSITE POSTINGS

Documents concerning this proceeding are available on the Department's website. To access them, go to <http://www.insurance.ca.gov>. To access them, go to <http://www.insurance.ca.gov>. Find near the end of the rightmost column, under the heading "Quick Links," the "Legal Information" link. Click it. On the "Legal Information" page, click on the "Proposed Regulations" link near the top of the page. When the "Search or Browse for Documents for Proposed Regulations" screen appears, you may choose to find the documents either by conducting a search or by browsing for them by name.

To search, enter 'RH05044134' (the Department's regulation file number for these regulations) in the search field. Alternatively, search using as your search term the California Insurance Code number of a code section that the regulations implement (for instance, "790.03"), or search by keyword ('fair,' for example, or 'settlement'). Then, click on the "Submit" button to display links to the various filing documents.

To browse, click on the "Browse All Regulations" button near the bottom of the screen. A list of the names of regulations for which documents are posted

will appear. Find in the list the "Fair Claims Settlement Practices" link, and click it. Links to the documents associated with these regulations will then be displayed.

## MODIFIED LANGUAGE

If the regulations adopted by the Department differ but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Interested persons should request a copy of these regulations prior to adoption from the contact person listed above.

## TITLE 13. AIR RESOURCES BOARD

### NOTICE OF PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE REGULATIONS FOR PORTABLE FUEL CONTAINERS

The Air Resources Board (the Board or ARB) will conduct a public hearing at the time and place noted below to consider adoption of amendments to the regulations and test procedures for portable fuel containers.

DATE: September 15–16, 2005  
TIME: 9:00 a.m.  
PLACE: South Coast Air Quality Management District Auditorium  
21865 E. Copley Dr.  
Diamond Bar, CA 91765

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., September 15, 2005, and will continue at 8:30 a.m., September 16, 2005. This item may not be considered until September 16, 2005. Please consult the agenda for the meeting, which will be available at least 10 days before September 15, 2005, to determine the day on which this item will be considered.

If you have a disability-related accommodation need, please go to <http://www.arb.ca.gov/html/ada/ada.htm> for assistance or contact the ADA Coordinator at (916) 323-4916. If you are a person who needs assistance in a language other than English, please contact the Bilingual Coordinator at (916) 324-5049. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

### INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

**Sections Affected:** Proposed amendments to title 13, California Code of Regulations, sections 2467, 2467.1, 2467.2, 2467.3, 2467.4, 2467.5, 2467.6, 2467.7; repeal of section 2467.8, and adoption of new sections 2467.8 and 2467.9. Proposed adoption of the incorporated "Certification Procedure, CP-501 for Portable Fuel Containers and Spill-Proof Spouts,"



“Test Procedures, TP-501 Determination of Integrity of Spill-Proof Spouts and Spill-Proof Systems,” and “TP-502 Determination of Diurnal Emissions from Portable Fuel Containers.” Proposed amendments to “Test Method 510, Automatic Shut-Off Test Procedure for Spill-Proof Systems and Spill-Proof Spouts,” adopted July 6, 2000, and Repeal of “Test Method 512, Determination of Fuel Flow Rate for Spill Proof Systems and Spill Proof Spouts, adopted July 6, 2000.”

Staff is proposing amendments to the regulations controlling emissions from portable fuel containers (PFC). The PFCs or “gas cans” are used to store and dispense fuel into on-road and off-road mobile sources.

The Board adopted regulations to control the emissions from PFCs in September 1999. The current regulations reduce emissions from three main processes: evaporation of fuel vapors through PFC openings, permeation of fuel through PFC container walls, and spillage during fueling events. The current PFC regulations were fully implemented in 2001 and are projected to result in a reduction of about 75 tons per day (tpd) of reactive organic gases (ROG) emissions statewide by 2007.

Shortly after implementation of the PFC regulations, consumers began to express complaints regarding spillage from the new PFCs. The ARB staff researched these complaints and learned that while the regulations have been successful in reducing emissions from evaporation and permeation, emissions from spillage continued to occur. Furthermore, ARB staff received complaints expressing dissatisfaction with the design and functionality of the PFC “spill-proof” spouts.

Other issues that have been identified during implementation of the regulations are poor production quality and the use of non-regulated containers for gasoline storage.

In response to the issues encountered with the current regulations, ARB staff is proposing the following amendments:

- Modify the existing spout regulations to improve spillage control;
- Include a voluntary Consumer Acceptance Program to support and encourage user-friendly PFC designs;
- Establish a certification program for PFCs to improve product quality;
- Clarify the definition of a PFC to include presently non-compliant containers;
- Combine the evaporation and permeation standards into a new diurnal standard to simplify certification and compliance testing; and,
- Adopt new PFC test procedures to streamline testing.

The ARB staff estimates that with the approval of the proposed amendments, ROG emissions will be reduced by 18.4 tpd by the year 2015. These emission reductions result from reducing emissions from spillage by removing the automatic shutoff requirement, adding kerosene containers into the regulations, clarifying the definition of a PFC to include utility jugs, and incorporating a diurnal standard.

The amendments are expected to have little effect on the cost of PFCs meeting current standards. However, ARB staff estimates that consumers will pay about \$8.50 more when purchasing a compliant kerosene container or utility jug in lieu of a non-compliant substitute container. The total cost from the proposed amendments will be about \$17 million over a five-year period, including costs associated with the proposed certification program and new test procedures. The estimated cost-effectiveness for this proposal is about \$ .40 to \$ .70 per pound of ROG reduced. This cost-effectiveness figure compares favorably with values for the small off-road engines (SORE) regulations recently adopted by the Board that had a cost-effectiveness range of under \$2.00 to over \$6.00 per pound of hydrocarbons reduced.

The ARB staff conducted five public workshops and had over 60 meetings with manufacturers and other interested parties during development of the proposed amendments. In addition, ARB staff considered alternatives to the proposal including no action, retaining the current requirements and adding a consumer education program, imposing a diurnal standard and certification program, and the current proposal. The ARB staff determined that adopting the proposal is technologically feasible, cost-effective and provides the greatest benefits to the people of California.

#### COMPARABLE FEDERAL REGULATIONS

The U.S. EPA is considering national standards for portable fuel containers and has attended meetings and public workshops held by the ARB on this topic. Currently, no comparable federal regulations pertaining to portable fuel containers have been adopted.

#### AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The Board staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled: Initial Statement of Reasons for Proposed Amendments to the Portable Fuel Container Regulations, and includes a summary of the economic and environmental impacts of the proposal.

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations,

may be accessed on ARB's web site listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, CA 95814, (916) 322-2990 at least 45 days prior to the scheduled hearing September 15, 2005.

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on ARB's web site listed below.

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact person, Mr. Dennis Goodenow, at (916) 322-2886 or [dgoodeno@arb.ca.gov](mailto:dgoodeno@arb.ca.gov).

Further, the agency representative and designated back-up contact persons to who non-substantive inquiries concerning the proposed administrative action may be directed are Artavia Edwards, Manager, Board Administration & Regulatory Coordination Unit, (916) 322-6070, or Amy Whiting, Regulations Coordinator, (916) 322-6533. The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on the ARB Internet site for this rulemaking at [www.arb.ca.gov/regact/pfc/2005/pfc2005.htm](http://www.arb.ca.gov/regact/pfc/2005/pfc2005.htm)

#### **COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED**

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulations are presented below.

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action will not create costs or savings to any state agency or in federal funding to the state, costs or mandate to any local agency or school district whether or not reimbursable by the state pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code, or other nondiscretionary costs or savings to state or local agencies.

In developing this regulatory proposal, the ARB staff evaluated the potential economic impacts on representative private persons or businesses. Designing the automatic shutoff feature has been reported by PFC manufacturers to be one of the most costly aspects of the current PFC regulations. Removing this feature will most likely result in a cost savings. No costs have been attributed to this amendment. To

estimate the cost of the proposed certification program ARB staff used data supplied by independent test companies and manufacturers' hourly labor rates. ARB staff estimates that it will cost a typical manufacturer \$4,000 to comply with the program. There are currently eight manufacturers producing PFCs for the California market, thus the cost of adding the certification program is \$32,000. Assuming that eight manufacturers sell about 1.9 million PFCs in the State each year, certification will cost about \$.02 per PFC. These costs would likely be passed on to the consumer. The proposed amendments would potentially increase the cost of a kerosene container or utility jug by \$6.00 to \$11.00, or an average of about \$8.50 per container. The increased cost is attributed to material and production costs associated with adding control technologies for evaporation, permeation, and spillage. In total, this will result in a cost of approximately \$17 million (0.6 million kerosene containers plus 1.4 million utility jugs  $\times$  \$8.50 per container). This amounts to a price increase of about \$1.70 per container per year over the estimated five-year useful life of the kerosene container. It is expected that the useful life of a utility jug is more than five years, thus the cost per year would be less. The cost of complying with the proposed diurnal emission standard is not expected to be substantially different from complying with the existing permeation standard in the PFC regulations. The total cost from the proposed amendments will be about \$17 million over a five-year period including costs associated with the proposed certification program and new test procedures.

The Executive Officer has made an initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action will not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

The Executive Officer has also determined, pursuant to title 1, CCR, section 4, that the proposed regulatory action will have some impact, although not significant, on small business that buy and sell kerosene containers. During the initial years of

implementation, the increased cost may lead to a slight drop in demand that could result in lower profits for businesses.

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer has found that the reporting requirements of the regulation which apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the board or that has otherwise been identified and brought to the attention of the board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

#### SUBMITTAL OF COMMENTS

The public may present comments relating to this matter orally or in writing at the hearing, and in writing or by e-mail before the hearing. To be considered by the Board, written submissions not physically submitted at the hearing must be received **no later than 12:00 noon, September 14, 2005**, and addressed to the following:

Postal mail is to be sent to:

Clerk of the Board  
Air Resources Board  
1001 I Street, 23rd Floor  
Sacramento, CA 95814

Electronic mail is to be sent to: [pfc2005@listserv.arb.ca.gov](mailto:pfc2005@listserv.arb.ca.gov) and received at the ARB **no later than 12:00 noon, September 14, 2005**.

Facsimile transmissions are to be transmitted to the Clerk of the Board at (916) 322-3928 and received at the ARB **no later than 12:00 noon September 14, 2005**. The Board requests but does not require that 30 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. The board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

#### STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under that authority granted in sections 39600, 39601, 43013, 43018, and 43101, of the Health and Safety Code, and *Western Oil and Gas Ass'n. v. Orange County Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975). The action is proposed to implement, interpret and make specific sections

39000, 39001, 39003, 39500, 39515, 39516, 41511, 43000, 43013, 43016, 43017, and 43018 of the Health and Safety Code, and *Western Oil and Gas Ass'n. v. Orange County Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975).

#### HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340) of the Government Code.

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with non substantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action; in such event the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text from the ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, CA 95814, (916) 322-2990.

### TITLE 13. AIR RESOURCES BOARD

#### NOTICE OF PUBLIC HEARING TO CONSIDER THE ADOPTION OF A CLEAN ON-ROAD SCHOOL BUS REGULATION FOR SCHOOL BUSES OPERATING IN THE SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider adoption of a regulation for school buses operating in the South Coast Air Quality Management District (SCAQMD or District). Both owners of public and private school bus fleets and private companies under contract to a school district are affected by this proposal. This notice summarizes the proposed control measure. The staff report presents the control measure in greater detail.

DATE: September 15–16, 2005

TIME: 9:00 a.m.

PLACE: South Coast Air Quality  
Management District  
Auditorium  
21865 East Copley Drive  
Diamond Bar, California 91765



This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., September 15, 2005, and may continue at 8:30 a.m., September 16, 2005. This item may not be considered until September 16, 2005. Please consult the agenda for the meeting, which will be available at least 10 days before September 15, 2005, to determine the day on which this item will be considered.

If you have a disability-related accommodation need, please go to <http://www.arb.ca.gov/html/ada/ada.htm> for assistance or contact the ADA Coordinator at (916) 323-4916. If you are a person who needs assistance in a language other than English, please contact the Bilingual Coordinator at (916) 324-5049. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

#### INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

**Sections Affected:** Proposed adoption of new sections 2024 and 2024.1 of article 4 within chapter 1, division 3, title 13, California Code of Regulations (CCR).

#### BACKGROUND

The Air Resources Board (ARB or the Board) is the state agency responsible for protecting public health and the environment from the harmful effects of air pollution. The ARB has the sole responsibility for controlling emissions from vehicular sources, except as otherwise provided by law.

The SCAQMD is the sole and exclusive local agency within the South Coast Air Basin and the desert portion of Riverside County in the Salton Sea Air Basin with responsibility for comprehensive air pollution control. The South Coast Air Basin has been designated as a serious nonattainment area for particulate matter (PM) and an extreme nonattainment area for ozone. In 1987, the Legislature enacted Health and Safety Code section 40447.5, which authorizes SCAQMD to adopt regulations that require operators of 15 or more public and commercial fleet vehicles, when adding or replacing vehicles, to purchase vehicles that are capable of operating on methanol or other equivalently clean-burning alternative fuel.

Under its Clean Fleets program, SCAQMD adopted seven fleet rules during the years 2000 and 2001. These rules were developed to gradually shift public agencies and certain private entities to lower emissions by requiring them to acquire alternative fuel vehicles whenever an operator with 15 or more vehicles purchased or leased vehicles for replacement or addition to its fleet. One of the seven rules is Rule 1195 for Clean On-Road School Buses.

Shortly after the District adopted its fleet rules, the Engine Manufacturers (EMA) and the Western States Petroleum Association (WSPA) sued the District in

federal court challenging its authority to adopt the rules. In April 2004, the United States Supreme Court ruled that it appears likely that at least certain aspects of the fleet rules were preempted by section 209(b) of the federal Clean Air Act. The Supreme Court remanded the case back to the federal District Court to determine whether some parts of the fleet rules could be characterized as state purchasing decisions and, if so, whether preemption applied. In response to this decision, SCAQMD requested that ARB submit the District's rules to the United States Environmental Protection Agency (U.S. EPA) for a waiver of preemption pursuant to section 209(b) of the Clean Air Act. The ARB requested public comment and consulted with U.S. EPA regarding the legal requirements for obtaining a waiver for a rule adopted by a local government. The ARB staff concluded that the fleet rules, as written and adopted by SCAQMD, would not receive a section 209(b) waiver because these rules have not been adopted by ARB as state regulations (applicable within the boundaries of SCAQMD).

When the State Legislature adopted Health and Safety Code section 40447.5, it intended that SCAQMD have the authority to adopt and implement clean fuel fleet rules. Accordingly, ARB staff has reviewed the information and prepared the present proposal, which through the state rulemaking process, is meant to support the intent of the State Legislature.

Meanwhile, on May 5, 2005, the federal District Court ruled that, under the "market participant" doctrine, the SCAQMD fleet rules are not preempted to the extent they apply to purchasing decisions made by state and local governmental entities. However, the District Court has not yet addressed questions of whether the fleet rules are preempted as they apply to private entities under contract with state or local governments or to used or leased vehicles. It is also possible that EMA or WSPA could appeal the "market participant" decision.

#### PROPOSED ACTIONS

The ARB and the local air districts recognize that emissions from diesel-fueled engines and vehicles are a serious public health concern, particularly for school age children who are more susceptible to their harmful health effects. The proposed regulation would require school districts, private schools, and private companies that contract with school districts to provide school bus services, to purchase/lease school buses powered by the cleanest engines available when adding or replacing school buses in the fleet. Proposed sections 2024 and 2024.1, title 13, CCR, would comprise the clean on-road school bus regulation for school buses operating in SCAQMD.

## 1. Scope and Applicability

The proposed regulation establishes requirements that apply beginning in the 2005 model year when school buses are purchased or leased by public and private school bus fleets that operate 15 or more buses within SCAQMD. Sufficient funding through grants or other sources external to the school bus fleet's budget must be available to fully cover the cost difference between a school bus purchase that would be made in the absence of the regulation and the school bus purchase or lease that meets the proposal's emission criteria. If this funding is not available, the school bus fleet operator may apply for an exemption from these requirements.

The proposed regulation also requires that operators of public and private school bus fleets of 15 or more buses install verified diesel emission control methods on at least 25 percent of their in-use diesel buses for which a method is available each year, beginning January 1, 2006. Sufficient grants or other sources external to the school bus fleet's budget must be available to cover the cost and installation of the verified diesel emission control method.

A school bus is defined as any vehicle that is used for the specific purpose of carrying students between home and school and to school activities. This applies to students through the twelfth grade. A medium-duty school bus is any school bus having a gross vehicle weight rating of 6,000 to 14,000 pounds. A heavy-duty school bus is any school bus with a gross vehicle weight rating of over 14,000 pounds.

## 2. Purchase and Lease Requirements for Newly Manufactured Vehicles

The regulatory proposal places purchase and lease requirements on operators of school bus fleets of 15 or more medium- and/or heavy-duty school buses. This proposal requires that when adding to or replacing medium- and heavy-duty school buses with new buses in an existing fleet, fleet operators must purchase or lease new school buses equipped with engines meeting a set of standards which have been given the designation of best engine selection/technology (BEST). The BEST criteria for newly manufactured medium- and heavy-duty vehicles are described in the following two paragraphs.

*BEST for Medium-duty School Buses:* The BEST criterion for the purchase or lease of a newly manufactured medium-duty school bus is that the bus be equipped with a non-diesel engine certified as Ultra Low Emission Vehicle (ULEV) or cleaner.

*BEST for Heavy-duty School Buses:* The BEST criteria for the purchase or lease of a newly manufactured heavy-duty school bus include emission standards for both NOx and PM that require increasingly cleaner vehicles as the program progresses. The standards for 2005–2006 model-year engines would

require certification to a NOx plus non-methane hydrocarbon (NMHC) standard of 1.8 grams per brake horsepower-hour (g/bhp-hr) and to a PM standard of 0.03 g/bhp-hr. For purchases or leases of new school buses with 2007–2009 model-year engines, certification to 0.2 g/bhp-hr maximum NOx family emission limit (FEL) and to a 0.01 g/bhp-hr maximum PM standard is required. At this time, only alternative-fueled engines are expected to be able to meet 0.2 g/bhp-hr NOx FEL. For 2010 and later model-year school bus purchases and leases, the engine must be certified to the NOx standard of 0.2 g/bhp-hr and the PM standard of 0.01 g/bhp-hr that will apply to all alternative fuel and diesel fuel heavy-duty engines.

## 3. Purchase and Lease Requirements for Pre-Owned School Buses

When school bus fleet operators purchase or lease a pre-owned heavy duty school bus, the regulatory proposal will require that they purchase or lease a school bus that has been repowered with a new engine that meets the BEST criteria. When school bus fleet operators purchase or lease a pre-owned medium duty school bus, the regulatory proposal will require that they purchase or lease a school bus with an engine certified to the Low Emission Vehicle (LEV) emission levels or cleaner.

4. Exemptions

The regulatory proposal provides exemptions from the purchase or lease requirements for several reasons. The lack of availability of external funding to pay for the incremental costs of a cleaner vehicle is the first and primary reason for granting an exemption.

Exemptions are also available based on hardship due to difficulty in the practical application of the regulatory proposal's purchase or lease requirements. Exemptions may be granted based on the lack of availability of alternative-fuel refueling facilities or lack of funding for installation of refueling facilities. Exemptions may also be granted based on the non-availability of the required bus size for a fixed route, the allowance for buses required for field trips, and the occasion when an urgent need arises for the rapid acquisition of additional buses due to unforeseen circumstances. Additionally, there is a provision for the merger of two private bus fleets or the case where one fleet purchases another. In such cases, the transfer of ownership of school buses due to the merger or fleet purchase will not be subject to the purchase requirements if both fleets were already operating within SCAQMD at the time of the purchase or merger.

An exemption for a pre-owned bus could be granted if the oldest school bus in the operator's existing fleet is scrapped or permanently removed from operation in the fleet. The pre-owned school bus that is added to the fleet would have to be equipped with a verified diesel emission control method if (i) the bus is eligible for

such a control method, and (ii) grants or external funding are available for the incremental cost of the verified diesel emission control method.

### **5. Diesel Emission Control Methods for School Buses in the South Coast Air District**

The regulatory proposal includes a provision to reduce emissions from in-use diesel school buses operating in fleets. Pursuant to current regulations, ARB verifies emission control methods designed to be used in retrofitting certified heavy-duty engines. The proposal would require that operators of public and private school bus fleets of 15 or more buses install verified diesel emission control methods on at least 25 percent of their buses for which a method is available each year, beginning January 1, 2006. The control method installed must be the highest level of emission control that has been verified for the specific engine on which it will be used. If the emission control method is a fuel-based verified method, then the school bus operator must continue to use the fuel-based method as long as the bus is being operated in the fleet. If the operator wishes to discontinue using the fuel-based method, the operator must apply to SCAQMD to change to another verified method for the remaining operating life of the bus.

### **6. Record-Keeping Requirement for Fleet Operators**

The proposed regulatory action includes provisions requiring record-keeping for purposes of compliance, auditing, and enforcement. Specifically, fleet information including manufacturer, model, model year, and fuel type must be made available to the District upon request to demonstrate compliance. Other records to be retained by the fleet operator include proof supporting exemptions and purchase records for fuel and fuel additives that are elements of an emission control strategy.

### **7. Administration and Non-Compliance**

Under the proposal, SCAQMD's Executive Officer would be responsible for administering the regulation, including consideration of requests for exemptions. The Executive Officer or his/her designee may bring an action for civil penalties as specified in state law and regulations, including, but not limited to, Health and Safety Code section 39674, for any violation of this regulation.

### **8. Emission Benefits of the Proposal**

The purpose of the proposed regulation is to reduce emissions from school buses, and to support the State Legislature's grant of authority to SCAQMD to adopt clean fuel fleet rules. The proposed regulation seeks to close the possible emission gap created by the United States Supreme Court's decision. Staff's proposal would reduce approximately 0.04 tons of NOx per day and 0.001 ton per day of PM in SCAQMD by 2010.

### **COMPARABLE FEDERAL REGULATIONS**

Although U.S. EPA sets emission standards for diesel and gasoline engines, U.S. EPA does not separately regulate school buses or school bus fleet operators. Federal emission standards for engines are codified in title 40, Code of Federal Regulations, part 86.

### **AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS**

The Board staff has prepared a Staff Report, which includes the Initial Statement of Reasons (ISOR) for the proposed action and a summary of the economic and environmental impacts of the proposal. The staff has also prepared a Technical Support Document (TSD) that summarizes technology available and feasible for compliance with the proposal.

Copies of the staff ISOR, TSD, and the full text of the proposed regulatory language may be accessed on the Board's website listed below, or may be obtained from the Board's Public Information Office, Air Resources Board, Visitors and Environmental Services Center, 1001 I Street, 1st Floor, Sacramento, California 95814, (916) 322-2990 at least 45 days prior to the scheduled hearing on September 15, 2005.

Upon its completion, the Final Statement of Reasons (FSOR) will also be available and copies may be requested from the agency contact persons in this notice or may be accessed on the website listed below.

Inquiries concerning the substance of the proposed regulation may be directed to Ms. Krista Fregoso, Air Pollution Specialist, by email at [kfregoso@arb.ca.gov](mailto:kfregoso@arb.ca.gov) or by phone at (916) 445-5035, or to Ms. Renee Kemena, Manager, by email at [rkemena@arb.ca.gov](mailto:rkemena@arb.ca.gov) or by phone at (916) 327-7214.

Further, the agency representative and designated back-up contact person to whom nonsubstantive inquiries concerning the proposed administrative action may be directed are Ms. Artavia Edwards, Manager, Board Administration & Regulatory Coordination Unit, (916) 322-6070, and Ms. Alexa Malik, Regulations Coordinator, (916) 322-4011. The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

This notice, ISOR, and all subsequent regulatory documents, including FSOR when completed, will be available on ARB's Internet site for this rulemaking at <http://www.arb.ca.gov/regact/scschl05/scschl05.htm>

### **COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED**

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred in reasonable compliance with the proposed regulations are presented below.



Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action will create costs or savings to a state agency or in federal funding to the state, costs or mandate to any local agency or school district whether or not reimbursable by the state pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code, or other nondiscretionary savings to local agencies.

### **1. Fiscal Effect On State Government**

No increased cost is expected to the State upon the adoption of this proposed regulation. Funds provided by the State to reimburse school districts for their costs have already been allocated for these types of expenditures.

### **2. Fiscal Effect on Local Government**

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on school districts. There are 129 public school districts in SCAQMD and of these, 65 have bus fleets containing 15 or more buses. The purchase requirements mandated in this proposal are entirely contingent on the availability of external funding. Therefore, the only cost to the affected school districts is for the minimal record-keeping requirements that aid in determining compliance with the proposed regulations.

Under Education Code section 17920 et seq., state mandated programs placed on public schools must be funded. Consequently, the incremental implementation cost for this regulatory proposal will be funded by public grants and funds external to the school bus fleet's fiscal budget. It is estimated that the cost of this regulation would be approximately \$5.3 to \$6 million in the current fiscal year (July 2005 to June 2006), and approximately the same in the following fiscal years through 2009.

### **3. Need for Reporting Requirements**

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), ARB's Executive Officer has found that the reporting requirements of the regulation which apply to school districts and private companies under contract to a school district are necessary for the health, safety, and welfare of the people of the State of California.

### **4. Fiscal Impact on Businesses**

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on businesses. The businesses directly affected by this regulatory proposal are private fleets of school buses that operate within SCAQMD and have 15 or more buses. These fleets include one private school fleet and 12 private contractor school bus fleets that provide services to public schools. Because the proposed regulation is structured to exempt school bus fleets

from requirements if external funding is not available, the staff believes there will be no significant impact on small businesses. In addition, the proposed regulation exempts fleets with fewer than 15 buses, making it even less likely that small businesses will be impacted.

Businesses indirectly affected by the regulatory proposal are school bus manufacturers, diesel and alternative-fueled engine manufacturers, diesel retrofit-equipment manufacturers, alternative fuel providers, and alternative-fuel-refueling equipment manufacturers and installers.

The adoption of the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons. Businesses that provide technology or services mandated under this proposal, such as engines, emission control systems, alternative-fuel refueling equipment, or installation services, may experience significant economic benefit from this rule. Some, but not all, of those businesses are located in California.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action may affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within California, or the expansion of businesses currently doing business within California. An assessment of the economic impacts of the proposed regulatory action can be found in the Staff Report.

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative private persons or businesses. The ARB has determined that there will be no, or an insignificant, potential cost impact, as defined in Government Code section 11346.5(a)(9) on representative private persons or businesses in reasonable compliance with the proposed action.

### **5. Costs to the Public**

School buses in SCAQMD are owned and operated by school districts and private companies under contract to a school district. Grant money for the incremental cost of purchasing school buses and installing infrastructure, such as fueling stations, must be available to purchase buses required by this proposed regulation. Without available external funding, the school bus fleet operator is exempted from the requirements of this proposed regulation. The total lifetime cost of this regulation has been estimated at \$28.4 to \$30.1 million based on the five-year period (through the 2009 model-year) that the school-bus-fleet operator requirements will differ from ARB's current standards for medium- and heavy-duty vehicles.

## 6. Consideration of Alternatives

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

### SUBMITTAL OF COMMENTS

The public may present comments relating to this matter orally or in writing at the hearing, and in writing or by e-mail before the hearing. To be considered by the Board, written submissions not physically submitted at the hearing must be received **no later than 12:00 noon, September 14, 2005**, and addressed to the following:

Postal mail is to be sent to:

Clerk of the Board  
Air Resources Board  
1001 I Street, 23rd Floor  
Sacramento, California 95814

Electronic mail is to be sent to: **scschl05@listserv.arb.ca.gov** and received at ARB **no later than 12:00 noon, September 14, 2005**.

Facsimile transmissions are to be transmitted to the Clerk of the Board at (916) 322-3928 and received at ARB **no later than 12:00 noon, September 14, 2005**.

The Board requests but does not require that 30 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing so that ARB staff and Board Members have time to fully address each comment. The Board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

### STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under that authority granted in sections 39600, 39601, 39658, 43013 and 43018 of the Health and Safety Code. This action is proposed to implement, interpret and make specific sections 39002, 39003, 39658, 39667, 43000, 43010, 43013, 43018, 43101, 43102, 43104, 43105 and 43700 of the Health and Safety Code.

### HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340) of the Government Code.

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with nonsubstantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action; in such event the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text from ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, California 95814, (916) 322-2990.

## TITLE 13. AIR RESOURCES BOARD

### NOTICE OF PUBLIC HEARING TO CONSIDER PROPOSED AMENDMENTS TO THE DIESEL PARTICULATE CONTROL MEASURE FOR ON-ROAD HEAVY-DUTY RESIDENTIAL AND COMMERCIAL SOLID WASTE COLLECTION VEHICLES: FLEET RULE FOR THE SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider amendments to the Diesel Particulate Control Measure for On-Road Heavy-Duty Residential and Commercial Solid Waste Collection Vehicles regulations. The proposed amendments would require owners of solid waste collection vehicles (collection vehicles) that operate in the South Coast Air Quality Management District (SCAQMD or District) to purchase low emission technology when purchasing or leasing collection vehicles, provided that compliant technology is commercially available at the time of purchase.

DATE: September 15–16, 2005

TIME: 9:00 a.m.

PLACE: South Coast Air Quality  
Management District  
Auditorium  
21865 E. Copley Drive  
Diamond Bar, California 91765

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., September 15, 2005, and may continue at 8:30 a.m., September 16, 2005. This item may not be considered until September 16, 2005. Please consult the agenda

for the meeting, which will be available at least 10 days before September 15, 2005, to determine the day on which this item will be considered.

If you have a disability-related accommodation need, please go to <http://www.arb.ca.gov/html/ada/ada.htm> for assistance or contact the ADA Coordinator at (916) 323-4916. If you are a person who needs assistance in a language other than English, please contact the Bilingual Coordinator at (916) 324-5049. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

## INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

**Sections Affected:** Proposed amendment to title 13, California Code of Regulations, section 2021.2.

### BACKGROUND

The Air Resources Board (ARB or Board) is the state agency responsible for protecting public health and the environment from the harmful effects of air pollution. The ARB has the sole responsibility for controlling emissions from vehicular sources, except as otherwise provided by law.

The SCAQMD is the sole and exclusive local agency within the South Coast Air Basin and the desert portion of Riverside County in the Salton Sea Air Basin with responsibility for comprehensive air pollution control. The South Coast Air Basin has been designated as a serious nonattainment area for particulate matter (PM) and an extreme nonattainment area for ozone. In 1987, the Legislature enacted Health and Safety Code section 40447.5, which authorizes SCAQMD to adopt regulations that require operators of 15 or more public and commercial fleet vehicles, when adding or replacing vehicles, to purchase vehicles that are capable of operating on methanol or other equivalently clean-burning alternative fuel.

Under its Clean Fleets program, SCAQMD adopted seven fleet rules during the years 2000 and 2001. These rules were developed to gradually shift public agencies and certain private entities to lower emissions by requiring them to acquire alternative fuel vehicles whenever an operator with 15 or more vehicles purchased or leased vehicles for replacement or addition to its fleet. One of these seven rules is Rule 1193 concerning solid waste collection vehicles.

Shortly after the District adopted its fleet rules, the Engine Manufacturers (EMA) and the Western States Petroleum Association (WSPA) sued the District in federal court challenging its authority to adopt the rules. In April 2004, the United States Supreme Court ruled that it appears likely that at least certain aspects of the fleet rules were preempted by section 209(b) of the federal Clean Air Act. The Supreme Court remanded the case back to the federal District Court to determine whether some parts of the fleet rules could

be characterized as state purchasing decisions and, if so, whether preemption applied. In response to this decision, SCAQMD requested that ARB submit the District's rules to the United States Environmental Protection Agency (U.S. EPA) for a waiver of preemption pursuant to section 209(b) of the Clean Air Act. The ARB requested public comment and consulted with U.S. EPA regarding the legal requirements for obtaining a waiver for a rule adopted by a local government. The ARB staff concluded that the fleet rules, as written and adopted by SCAQMD, would not receive a section 209(b) waiver because these rules have not been adopted by ARB as state regulations (applicable within the boundaries of SCAQMD).

When the State Legislature adopted Health and Safety Code section 40447.5, it intend that SCAQMD have the authority to adopt and implement clean fuel fleet rules. Accordingly, ARB staff has reviewed the information and prepared the present proposal, which through the state rulemaking process, is meant to support the intent of the State Legislature.

Meanwhile, on May 5, 2005, the federal District Court ruled that, under the "market participant" doctrine, the SCAQMD fleet rules are not preempted to the extent they apply to purchasing decisions made by state and local governmental entities. However, the District Court has not yet addressed questions of whether the fleet rules are preempted as they apply to private entities under contract with state or local governments or to used or leased vehicles. It is also possible that EMA or WSPA could appeal the "market participant" decision.

### PROPOSED AMENDMENTS

If adopted by the Board, the proposed amendments would require all owners of solid waste collection vehicles operating in the SCAQMD, whether owned or operated by public agencies or private companies, to purchase the lowest emitting trucks available. Staff projects that the lowest emitting trucks will operate on alternative-fuel (most likely natural gas) through the 2009 model year. For 2010 and subsequent model years, staff projects emissions from diesel and natural gas vehicles to be equivalent.

The amendments to ARB's existing solid waste collection vehicle regulations would insert specific purchasing requirements based on a performance standard of 0.20 grams per brake horsepower-hour (g/bhp-hr) for oxides of nitrogen (NOx) and 0.01 g/bhp-hr for particulate matter (PM). The performance standard could be met by a new engine as certified or a new engine plus a verified emission control system. In developing this proposal, staff has worked to obtain current, objective information on the challenges, cost-effectiveness, and emission benefits from the various technology options.



Staff expects a small positive impact on emissions from solid waste collection vehicles as a result of this proposal. Reductions in NO<sub>x</sub> will be about 0.3 tons per day, on average, over the 15-year life of the rule. The cumulative NO<sub>x</sub> reduction through the year 2020 amounts to about 1,590 tons, or about four percent of the total NO<sub>x</sub> emissions from SCAQMD collection vehicles from 2006 to 2020. Staff expects only a very small reduction in PM emissions attributable to the regulations, as PM emissions from all heavy-duty diesel and alternative-fuel engines are required to be the same from the 2007 model year onward.

#### COMPARABLE FEDERAL REGULATIONS

Although U.S. EPA sets emission standards for diesel and gasoline engines, U.S. EPA does not separately regulate solid waste collection vehicles or their engines. Federal emission standards for engines are codified in title 40, Code of Federal Regulations, part 86.

#### AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The Board staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The staff has also prepared a technical support document (TSD) that summarizes technology available and feasible for compliance with the proposal.

Copies of the staff ISOR, TSD, and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations, may be accessed on the ARB's website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, California 95814, (916) 322-2990 at least 45 days prior to the scheduled hearing September 15, 2005.

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on the ARB's website listed below.

Inquiries concerning the substance of the proposed regulations may be directed to the designated agency contact persons, Mr. Richard Varenchik by email at [rvarench@arb.ca.gov](mailto:rvarench@arb.ca.gov) or by phone at (626) 575-6730, or to Ms. Annette Hebert by email at [ahbert@arb.ca.gov](mailto:ahbert@arb.ca.gov) or by phone at (626) 575-6973.

Further, the agency representative and designated back-up contact persons to whom nonsubstantive inquiries concerning the proposed administrative action may be directed are Ms. Artavia Edwards, Manager, Board Administration & Regulatory Coordination Unit, (916) 322-6070, or Ms. Alexa Malik,

Regulations Coordinator, (916) 322-4011. The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

This notice, the ISOR, and all subsequent regulatory documents, including the FSOR, when completed, are available on the ARB Internet site for this rulemaking at <http://www.arb.ca.gov/regact/scswcv05/scswcv05.htm>.

#### COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulations are presented below.

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action will create costs or savings to a state agency, but not in federal funding to the state, and will create costs or a mandate to a local agency or school district which is not reimbursable by the state pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code, or other nondiscretionary savings to state or local agencies. The proposed action may result in costs to local agencies operating collection vehicles, but those costs are expected to be recovered through appropriate fare increases.

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative private persons or businesses. Staff estimates that the total additional cost owners would incur by complying with the proposal would range from \$31.6 million to \$82.7 million over 15 years (2006 through 2020). The high cost estimate assumes the purchase of alternative-fuel (liquefied natural gas) trucks, and includes differential costs for the vehicle, operations and maintenance, and new fueling stations. Of the \$82.7 million, about \$56 million (or about two thirds) comes from additional capital costs, while the remaining \$27 million comes from additional operations and maintenance costs. The ARB estimates the total cost per household, over the 2006 to 2020 timeframe, would be approximately \$15 dollars, or \$1 dollar annually.

The Executive Officer has made an initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons. The proposed requirements could have a positive impact on manufacturers and distributors of alternative-fuel

engines, alternative-fuel vehicle components, alternative fuels and fueling stations, and diesel emission control systems. The proposed amendments apply equally to all owners of solid waste collection vehicles that operate within SCAQMD regardless of where their companies are based.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action may affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. Staff expects that the proposed regulations would result in the expanded use of alternative fuels, related technologies, and diesel emission control systems. To meet increased demand for these products, there would likely be job creation. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

The Executive Officer has also determined, pursuant to title 1, CCR, section 4, that the proposed regulatory action will affect small businesses.

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

#### SUBMITTAL OF COMMENTS

The public may present comments relating to this matter orally or in writing at the hearing, and in writing or by e-mail before the hearing. To be considered by the Board, written submissions not physically submitted at the hearing must be received **no later than 12:00 noon, September 14, 2005**, and addressed to the following:

Postal mail is to be sent to:

Clerk of the Board  
Air Resources Board  
1001 I Street, 23rd Floor  
Sacramento, California 95814

Electronic mail is to be sent to: [scswcv05@listserv.arb.ca.gov](mailto:scswcv05@listserv.arb.ca.gov), and received at ARB **no later than 12:00 noon, September 14, 2005**.

Facsimile transmissions are to be transmitted to the Clerk of the Board at (916) 322-3928 and received at ARB **no later than 12:00 noon, September 14, 2005**.

The Board requests but does not require that 30 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing so that ARB staff and Board Members

have time to fully consider each comment. The Board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

#### STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under that authority granted in Health and Safety Code, sections 39600, 39601, and 39658, Health and Safety Code. This action is proposed to implement, interpret and make specific sections 39002, 39003, 39650 through 39675, 43000, 43013, 43018, 43101, 43102, 43104, 43105, and 43700, Health and Safety Code.

#### HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340) of the Government Code.

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with nonsubstantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action; in such event the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text from the ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, California 95814, (916) 322-2990.

### TITLE 13. AIR RESOURCES BOARD

#### NOTICE OF PUBLIC HEARING TO CONSIDER PROPOSED AMENDMENTS TO THE EXHAUST EMISSION STANDARDS FOR 2007-2009 MODEL-YEAR HEAVY DUTY URBAN BUS ENGINES AND THE FLEET RULE FOR TRANSIT AGENCIES

The Air Resources Board (the Board or ARB) will conduct a public hearing at the time and place noted below to consider adoption of amendments to the exhaust emission standards and test procedures for urban bus engines and vehicles and to the ARB fleet rule for transit agencies. The purposes of these amendments are to achieve emission reductions from the operations of transit agencies throughout the state, and to make specific changes in the regulations to specifically address transit vehicles used in the South

Coast Air Quality Management District (SCAQMD or District). This notice summarizes the significant amendments. The staff report presents the proposal in greater detail.

DATE: September 15–16, 2005

TIME: 9:00 a.m.

PLACE: South Coast Air Quality  
Management District  
Auditorium  
21865 E. Copley Drive  
Diamond Bar, California 91765

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., September 15, 2005, and may continue at 8:30 a.m., September 16, 2005. This item may not be considered until September 16, 2005. Please consult the agenda for the meeting, which will be available at least 10 days before September 15, 2005, to determine the day on which this item will be considered.

If you have a disability-related accommodation need, please go to <http://www.arb.ca.gov/html/ada/ada.htm> for assistance or contact the ADA Coordinator at (916) 323-4916. If you are a person who needs assistance in a language other than English, please contact the Bilingual Coordinator at (916) 324-5049. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

#### INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

**Sections Affected:** Proposed amendments to title 13, California Code of Regulations, sections 1956.1, 1956.2, and 1956.8.

Staff has identified two policy decisions to be considered by the Board. They are:

- The appropriate emission standards for new 2007 and later model-year urban bus engines, and the potential amendment of ARB's transit fleet rule to require the use of alternative fuel transit buses statewide; and
- The need for Board adoption of a fleet rule requiring the use of alternative fuel buses by the six "diesel path" transit agencies within SCAQMD.

#### BACKGROUND

California's current oxides of nitrogen (NOx) emission standard for new 2007 and later model-year diesel urban bus engines is 0.2 grams per brake horsepower-hour (g/bhp-hr)—a tightening of the 0.5 g/bhp-hr NOx standard that has applied for the 2004–2006 model years. The California and federal national heavy-duty truck new engine standard for 2007, which includes urban buses for all but California, is also 0.2 g/bhp-hr NOx, and applies to one-half of the new engines sold in 2007 through 2009. The heavy-duty truck standard, however allows manufac-

turers the flexibility to choose, for each engine type, any emission level between the current standard 2.4 g/bhp-hr (non-methane hydrocarbon plus NOx) and the new 0.2 g/bhp-hr NOx standard. This results in the option of certifying all engines to an average NOx level of 1.2 g/bhp-hr during 2007 through 2009, and this is what engine manufacturers have stated they plan to do. Thus, California's new urban bus engine standard is more stringent than the national urban bus engine standard.

Along with the exhaust emission standards for urban bus engines and vehicles, in 2000 ARB also adopted a Fleet Rule for Transit Agencies. It has required each transit agency in the state to select a non-revocable compliance path—either the "diesel" path or the "alternative-fuel" path—by January 1, 2001. Path selection establishes the fuel type for new urban bus purchases or leases through model year 2015 and is a non-revocable election. There are 76 transit agencies statewide that report to ARB under ARB's Fleet Rule for Transit Agencies (28 are on the alternative fuel path and 48 are on the diesel path). Most air quality districts are fairly evenly split, with some transit agencies on the alternative fuel path and some on the diesel path. Exceptions are the Bay Area, where most agencies are on the diesel path, and the South Coast, where most agencies are on the alternative fuel path.

The trends in certification and purchases of new urban buses show that manufacturers are not certifying any diesel urban bus engines that meet California's standards of 0.5 g/bhp-hr for 2004 to 2006 model years, leading to little or no turnover of diesel buses in 2004–2006 for transit agencies on the diesel fuel path reluctant to switch to alternative fuel. Engine manufacturers have indicated they do not plan to certify diesel urban bus engines to meet the California NOx standard of 0.2 g/bhp-hr for 2007 to 2009 model year, so diesel engines for buses would continue to be unavailable for three additional years.

In June 2004, ARB staff, with concurrence of the Board, postponed a decision on a staff proposal to align ARB's current urban bus engine standards with the California 2007 heavy-duty standard because of an ongoing evaluation of available 2007 urban bus engine technology. Of particular interest to the Board was whether natural gas engines would comply with the 2007 urban bus NOx emission standard.

#### POTENTIAL AMENDMENTS TO THE EMISSION STANDARDS FOR NEW URBAN BUS ENGINES OR OTHER STATEWIDE AMENDMENTS

Staff has assessed urban bus engine availability based on the current 2007–2009 model year standard versus what could be available if the Board were to



amend the NOx standard to align with the current 2007–2009 model year heavy-duty truck engine standards, and is presenting the results of its assessment to the Board. The Board has two basic options. The first is to keep the urban bus NOx standard as it is. Under this option, there will not be any diesel engines that meet the current standard for 2007 through 2009 available to transit agencies on the diesel path. Starting in 2010 however, diesel urban bus engines are expected to meet the required standard and will become available for purchase. Alternative fuel engines will likely be available beginning in 2007 meeting the 0.2 g/bhp-hr NOx standard, and thus transit agencies on the alternative fuel path may continue to buy alternative fuel urban buses and are not directly affected by potential amendments to the urban bus engine emission standard.

Under the first option, many transit agencies favoring diesel buses have indicated that, if no diesel buses are available during 2007 through 2009, they do not plan to purchase alternative fuel buses and instead will delay purchases of new buses until diesel buses are available in 2010. As a result, higher emitting older buses that would have been replaced during 2007 through 2009 will stay in operation until at least 2010, adding to the older buses already held onto during the 2004 through 2006 time period. Supporters of alternative fuels favor this option because it increases the incentive to purchase alternative fuel buses. However, transit agencies on the diesel path oppose it because it disrupts their purchase process of new buses and keeps their older buses on the road longer.

The second option available to the Board is to relax the urban bus NOx emission standard for 2007 through 2009 to align it with the comparable emission standard for heavy-duty truck engines. As a result of this option, urban buses would be required to meet the same standards that most other diesel engines for trucks and buses are required to meet. Manufacturers would accordingly provide compliant diesel engines for urban buses, and urban buses with these engines would be available for transit agencies to purchase beginning in 2007. This results in lower emissions compared to retaining the current standards, at least for the first few years, because higher emitting older diesel buses will be replaced during 2007 through 2009 with the new, cleaner engines meeting a 1.2 g/bhp-hr level for NOx. Under the first option these older diesel buses would remain in service until at least 2010, and perhaps beyond.

Under the second option however, total statewide emissions will be somewhat higher than under the first option after about 2011. This occurs because, under the first option, transit agencies would begin after 2009 to make up for purchases deferred during 2007 through 2009. The engines in the new buses purchased

in 2010 and later will meet the 0.2 g/bhp-hr NOx standard rather than the less stringent 1.2 g/bhp-hr NOx standard that would have applied in 2007–2009 under the second option. Thus, in the longer term there will be some engines meeting the 1.2 g/bhp-hr NOx level in the bus fleet under the second option, whereas all would meet 0.2 g/bhp-hr under the first option.

Agencies on the diesel path favor the second option because it allows them to continually purchase diesel buses beginning in 2007 without disruption. Proponents of alternative fuel buses believe that this option undercuts their investment in alternative fuels and sends the signal that the State no longer favors alternative fuels.

A third option the staff considered is amending ARB's Fleet Rule for Transit Agencies to require that all transit agencies statewide use alternative fuel buses when making purchases or leases through 2015. Under this option, transit districts now on the diesel path would no longer have the option of deferring purchases while waiting for diesel engines to be available in 2010. These agencies would have to switch to alternative fuel in order to buy buses and maintain transit service.

The third option results in slightly lower emissions than the second option (align). Compared to the first option (keep current standard), emissions are lower from 2007 to 2012. Transit agencies on the diesel path, particularly those in the Bay Area, strongly oppose this option because they believe the use of alternative fuel buses results in less reliable service, and diesel as clean as alternative fuel buses will be available in 2010 for purchase. They also point out they were allowed to make a choice of fuel type when the ARB Fleet Rule for Transit Agencies was adopted in 2000, and they should not be forced to change now at great cost and disruption, for little air quality benefit. Smaller transit agencies in less urbanized areas have expressed concern about the cost of alternative fuel engines, and the lack of alternative fuel availability. Proponents of alternative fuel strongly favor this approach because it creates a growing demand for their products and a strong incentive to develop new engines.

The rulemaking documents prepared in connection with this notice set forth the language necessary to implement the option of aligning the urban bus standards with the heavy-duty truck standards beginning with the 2007 model year. Should the Board favor the first option—keeping the urban bus standards as they are—no regulatory changes are necessary. Should the Board decide that all transit agencies statewide should be required to purchase alternative fuel, a 15-day modification to ARB's Fleet Rule for Transit Agencies would be needed accomplish this (and no change to the urban bus emission standards would be necessary).

AMENDING ARB'S FLEET RULE TO  
MANDATE THE ALTERNATIVE FUEL PATH  
FOR TRANSIT AGENCIES WITHIN  
THE SCAQMD

Under its Clean Fleets Program, SCAQMD adopted seven fleet rules during 2000 and 2001. The rules were developed to gradually shift public agencies and certain private entities to lower emission and alternative-fuel vehicles whenever a fleet operator purchases or leases a vehicle for replacement or addition to a fleet. The District adopted these rules based on Health and Safety Code section 40447.5, which authorizes SCAQMD to adopt regulations that require operators of 15 or more public and commercial fleet vehicles, when adding or replacing vehicles, to purchase vehicles that are capable of operating on methanol or other equivalently clean-burning alternative fuel. One of the fleet rules adopted is Rule 1192—Clean On-Road Transit Buses.

Shortly after the District adopted its fleet rules, the Engine Manufacturers (EMA) and the Western States Petroleum Association (WSPA) sued the District in federal court challenging its authority to adopt the rules. In April 2004, the United States Supreme Court ruled that it appears likely that at least certain aspects of the fleet rules were preempted by section 209(b) of the federal Clean Air Act. The Supreme Court remanded the case back to the federal District Court to determine whether some parts of the fleet rules could be characterized as state purchasing decisions and, if so, whether preemption applied. In response to this decision, SCAQMD requested that ARB submit the District's rules to the United States Environmental Protection Agency (U.S. EPA) for a waiver of preemption pursuant to section 209(b) of the Clean Air Act. The ARB requested public comment and consulted with U.S. EPA regarding the legal requirements for obtaining a waiver for a rule adopted by a local government.

Based on its review, ARB staff concluded that these fleet rules, as written and adopted by the District, would not receive a Section 209(b) waiver because these rules have not been adopted by the ARB as state regulations (applicable within the SCAQMD). For this reason, staff has developed this proposal which is designed to maintain the reductions anticipated from the full implementation of SCAQMD's Rule 1192 and will ensure that statewide alignment does not allow the six transit agencies in the District that are currently on the diesel fuel path to purchase higher emitting diesel engines.

Of the 17 transit agencies in SCAQMD that are subject to ARB's Fleet Rule for Transit Agencies, 11 are on the alternative fuel path and accordingly must continue to purchase alternative fuel buses through 2015 under the existing ARB rule. These agencies

represent 90 percent (4120 buses) of the transit buses in the District. Of the six transit agencies currently on the diesel path in the District, most have been planning to purchase alternative fuel buses only, in order to comply with SCAQMD Rule 1192.

Meanwhile, on May 5, 2005, the federal District Court ruled that, under the "market participant" doctrine, the SCAQMD fleet rules are not preempted to the extent they apply to purchasing decisions made by state and local governmental entities. However, the District Court has not yet addressed questions whether the fleet rules are preempted as they apply to private entities under contract with state or local governments or to used or leased vehicles. It is also possible that EMA or WSPA could appeal the "market participant" decision.

In this rulemaking, the Board will have the option of amending the ARB's Fleet Rule for Transit Agencies to mandate that the six diesel path transit agencies in SCAQMD switch to the alternative fuel path, in order to have the state rule achieving the alternative fuel objectives of the District's Rule 1192. The ARB's adoption of a unique fleet requirement for the transit agencies in the District would have the effect of addressing the Court's decision while reflecting the Legislature's intent that SCAQMD be authorized to establish an alternative fuel fleet rule for transit districts within the District operating 15 or more buses. Proponents of alternative fuels believe this option will encourage further development of alternative fuel engines and infrastructure, and is a good policy necessary to prepare California for a more energy secure future. Diesel engine manufacturers and California businesses oppose, on principle, any rule that mandates alternative fuels.

If the Board wishes to assure that alternative fuel urban transit buses are purchased throughout the District, and determines it wise to provide a backstop to the current District Rule 1192 in case litigation overturns the District rule, the rulemaking documents include regulatory language that would amend ARB's Fleet Rule for Transit Agencies to require diesel path transit agencies in SCAQMD to switch to the alternative fuel path.

COMPARABLE FEDERAL REGULATIONS

There are comparable federal regulations for 2007 and subsequent model-year heavy-duty engines, which are codified in title 40, Code of Federal Regulations, part 86, subparts A, I, and N. One of the regulatory options developed by staff would align the exhaust emission engine standards for new urban bus engines with the federal standards.

There are no federal regulations comparable to the California fleet rule for transit agencies.

## AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The Board staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The staff has also prepared a technical support document (TSD) that summarizes technology available and feasible for rule compliance.

Copies of the staff ISOR, the TSD, and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations, may be accessed on the ARB's website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, California 95814, (916) 322-2990 at least 45-days prior to the scheduled hearing September 15, 2005.

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on the ARB's website listed below.

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons, Mr. David Salardino by email at [dsalardi@arb.ca.gov](mailto:dsalardi@arb.ca.gov) or by phone at (626) 575-6679, or to Ms. Annette Hebert by email at [ahebert@arb.ca.gov](mailto:ahebert@arb.ca.gov) or by phone at (626) 575-6973.

Further, the agency representative and designated back-up contact person to whom nonsubstantive inquiries concerning the proposed administrative action may be directed are Ms. Artavia Edwards, Manager, Board Administration & Regulatory Coordination Unit, (916) 322-6070, and Ms. Alexa Malik, Regulations Coordinator, (916) 322-4011. The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

This notice, ISOR and all subsequent regulatory documents, including FSOR, when completed, are available on ARB's Internet site for this rulemaking at [www.arb.ca.gov/regact/sctransit/sctransit.htm](http://www.arb.ca.gov/regact/sctransit/sctransit.htm)

## COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulations are presented below.

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action

will not create costs or savings to any state agency or in federal funding to the state, costs or mandate to school districts whether or not reimbursable by the state pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code, or other nondiscretionary savings to state or local agencies. However, the staff's proposal to require all transit buses in the SCAQMD to follow the alternative-fuel path, combined with the proposal to align the California urban bus standards with the federal 2007 and later model-year heavy-duty engine standards may result in costs to local agencies operating transit properties, but those costs are expected to be recovered through appropriate fare increases. Statewide, these costs are expected to range from about \$6-\$8 million over the life of the regulations.

In developing this regulatory proposal, the ARB staff evaluated the potential economic impacts on representative private persons or businesses. The ARB is not aware of any cost impacts that a representative private person or business, apart from those providing transit services, would necessarily incur in reasonable compliance with the proposed action.

The Executive Officer has made an initial determination that the proposed regulatory action to require transit buses in the SCAQMD to follow the alternative-fuel path and to align the California urban bus standards with the federal 2007 and later model-year heavy-duty engine standards would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action to require transit buses in the SCAQMD to follow the alternative-fuel path and to align the California urban bus standards with the federal 2007 and later model-year heavy-duty engine standards would not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

The Executive Officer has also determined, pursuant to title 1, CCR, section 4, that the proposed regulatory action to require transit buses in the SCAQMD to follow the alternative-fuel path and to align the California urban bus standards with the federal 2007 and later model-year heavy-duty engine standards would not affect small businesses because the proposed amendments do not impose a mandate to



produce but open a potential market by allowing the sale and purchase of urban buses. In addition, the proposal requiring the alternate-fuel path for all transit agencies in the District is expected to have a positive impact on the alternative-fuel engine and bus manufacturers.

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

#### SUBMITTAL OF COMMENTS

The public may present comments relating to this matter orally or in writing at the hearing, and in writing or by e-mail before the hearing. To be considered by the Board, written submissions not physically submitted at the hearing must be received **no later than 12:00 noon, September 14, 2005**, and addressed to the following:

Postal mail is to be sent to:

Clerk of the Board  
Air Resources Board  
1001 I Street, 23rd Floor  
Sacramento, California 95814

Electronic mail is to be sent to: [sctransit@listserv.arb.ca.gov](mailto:sctransit@listserv.arb.ca.gov) and received at the ARB **no later than 12:00 noon, September 14, 2005**.

Facsimile transmissions are to be transmitted to the Clerk of the Board at (916) 322-3928 and received at the ARB **no later than 12:00 noon, September 14, 2005**.

The Board requests but does not require that 30 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. The Board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

#### STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under that authority granted in Health and Safety Code, sections 39600, 39601, 39667, 39701(b), 43013, 43018, 43100, 43101, 43104, 43105, 43701(b) and 43806, and section 28114 of the Vehicle Code. This action is proposed to implement, interpret and make specific sections 39002, 39003, 39017, 39033, 39500, 39650, 39657, 39667, 39701, 40000, 43000, 43000.5, 43009, 43013, 43018, 43100, 43101, 43102, 43104, 43106,

43202, 43204, 43206, 43210, 43211, 43212, 43213, 43701(b), 43801 and 43806 of the Health and Safety Code, and sections 233 and 28114 of the Vehicle Code.

#### HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340) of the Government Code.

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with nonsubstantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action; in such event the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text from the ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, California 95814, (916) 322-2990.

### TITLE 15. DEPARTMENT OF CORRECTIONS AND REHABILITATION

#### NOTICE OF ADOPTION OF EMERGENCY REGULATIONS

##### California Code of Regulations Title 15, Crime Prevention and Corrections

**NOTICE IS HEREBY GIVEN** that the Secretary of the Department of Corrections and Rehabilitation (CDCR), pursuant to the authority granted by Government Code Section 12838.5 and Penal Code (PC) 5055, and the rulemaking authority granted by PC Section 5058.3, in order to implement, interpret and make specific PC Section 5054, proposes to adopt and amend sections 3006, 3187, 3188, 3189, and 3331, in the California Code of Regulations (CCR), Title 15, to allow the Department to conform to recent legislation that bans the use and possession of tobacco by inmates, bans the use of tobacco by staff wherever inmates are present, and expands the smoking free zone from 5 feet to 20 feet outside doors and windows. Additionally, the Department has utilized its rule-making authority to extend the ban of tobacco possession to staff and visitors.

PUBLIC HEARING

Date and Time: October 6, 2005, 9:00 a.m.–2:00 p.m.

Place: Resource Agency Auditorium  
1416 Ninth Street  
Sacramento, CA 95814

Purpose: To receive comments about this action.

PUBLIC COMMENT PERIOD

The public comment period will close October 6, 2005 at 5:00 pm. Any person may submit public comments in writing (by mail, by fax, or by e-mail) regarding the proposed changes. To be considered by the Department, comments must be submitted to the Department of Corrections and Rehabilitation, Regulation and Policy Management Branch, P.O. Box 942883, Sacramento, CA 94283-0001; by fax at (916)358-2636; or by e-mail at [RPMB@executive.corr.ca.gov](mailto:RPMB@executive.corr.ca.gov) before the close of the comment period.

CONTACT PERSON

Please direct any inquiries regarding this action to:

Timothy M. Lockwood, Chief  
Regulation and Policy Management Branch  
Department of Corrections and Rehabilitation  
P.O. Box 942883  
Sacramento, CA 94283-0001  
Telephone: (916) 358-1655

In the event the contact person is unavailable, inquires should be directed to the following back-up person:

John McClure  
Regulation and Policy Management Branch  
Telephone: (916) 358-1655

Questions regarding the substance of the proposed regulatory action should be directed to:

Steve Lam, Staff Services Manager I  
Institutions Division  
Telephone: (916) 323-0737.

LOCAL MANDATES

This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement pursuant to Government Code Section 17561.

FISCAL IMPACT STATEMENT

- Cost or savings to any state agency: *None*
- Other non-discretionary cost or savings imposed on local agencies: *None*
- Cost or savings in federal funding to the state: *None*

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will have no significant effect on housing costs.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS

The Department has initially determined that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

EFFECT ON SMALL BUSINESSES

The Department has determined that the proposed regulations may not affect small businesses. It is determined that this action has no significant adverse economic impact on small business, because they are not affected by the internal management of state prisons.

ASSESSMENTS OF EFFECTS ON JOB AND/OR BUSINESS CREATION, ELIMINATION, OR EXPANSION

The Department has determined that the proposed regulation will have no affect on the creation of new or the elimination of existing jobs or businesses within California, or affect the expansion of businesses currently doing business in California.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to its attention, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulatory action.

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS

The Department has prepared and will make available the text and the Initial Statement of Reasons (ISOR) of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the Department's contact person. The proposed text, ISOR, and Notice of Proposed Action will also be made available on the Department's website <http://www.cdcr.ca.gov>.

**AVAILABILITY OF THE FINAL  
STATEMENT OF REASONS**

Following its preparation, a copy of the final statement of reasons may be obtained from the Department's contact person.

**AVAILABILITY OF CHANGES TO  
PROPOSED TEXT**

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this notice. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

**INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW**

PC Section 5054 vests with the Director the supervision, management and control of the prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of inmates.

PC Section 5058 authorizes the Director to prescribe and amend regulations for the administration of prisons.

PC Section 5058.3 authorizes the Director to adopt, amend, or repeal emergency regulations conducted pursuant to Government Code Section 11340.

These revisions and adoption are necessary in order to incorporate as regulation policy refinements that will ensure that Departmental rules accurately reflect legislation that became effective July 1, 2005. Specifically, Assembly Bill 384 prohibits the possession or use of tobacco products by inmates, with the exception of certain approved inmate religious ceremonies. Additionally, the use of tobacco products by non-inmates, including staff, visitors, and vendors/contractors is also banned wherever inmates under the jurisdiction of the Department are present, with the exception of staff residential housing.

The Department is relying on its general rule-making authority to extend the ban on possession of tobacco products to include staff, visitors, and vendors/contractors. The extension of this prohibition on possession of tobacco products eases administration in that both inmates and staff must abide by the same rules governing use and possession of tobacco. This tobacco prohibition promotes a healthier workplace as well as carries a potential to reduce healthcare and disability costs to the Department by minimizing

the exposure of inmates and staff to tobacco products at any location where inmates are present. Assembly Bill 846 changed existing provisions of the Government Code relating to smoking and tobacco control by expanding the smoking free zone from 5 feet to 20 feet outside doors and windows of state buildings.

The Department intends to provide information and promote tobacco cessation programs for both inmates and staff that conform to the security needs of the institutions. The prohibition on possession will reduce the temptation and opportunity for staff, inmates, and visitors to the institutions to traffic in tobacco. Meeting the legislative requirements and the broadened prohibition on staff and visitor possession of tobacco necessitates specific amendments in the Departments existing smoking regulations and other related regulations contained in Title 15 of the California code of Regulations.

**TITLE 16. BOARD  
OF ACCOUNTANCY**

NOTICE IS HEREBY GIVEN that the California Board of Accountancy is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Sheraton Universal Hotel, 333 Universal Hollywood Drive, Universal City, CA 91608 at 11:00 a.m., on September 16, 2005. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the California Board of Accountancy at its office no later than 5:00 p.m. on September 15, 2005 or must be received by the California Board of Accountancy at the hearing. If submitted at the hearing, it is requested, although not required, that 25 copies be made available for distribution to Board members and staff. The California Board of Accountancy, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as the Contact Person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

**AUTHORITY AND REFERENCE**

Pursuant to the authority vested by Sections 5010, 5018, 5092, 5093, 5095 of the Business and Professions Code and to implement, interpret or make specific Sections 122, 163, 5018, 5023, 5081, 5082,



5082.1, 5082.2, 5087, 5092, 5093, 5095, 5100, and 5131 of the Business and Professions Code, and Section 11435.50(e) of the Government Code, the California Board of Accountancy is considering changes to Division 1 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW

**1. Amend Section 8.1 of Title 16 of the California Code of Regulations.**

Section 5010 of the Business and Professions Code authorizes the California Board of Accountancy to adopt regulations for the orderly administration of the Accountancy Act.

Current Section 8.1 specifies the process for examination candidates to obtain the Authorization to Test and Notice to Schedule for the computer-based Uniform Certified Public Accountant Examination.

This proposal would revise Section 8.1 to extend the time period during which the Authorization to Test and Notice to Schedule remain in effect for those instances in which the candidate was unable to test because of extenuating circumstances. The objective of this proposal is to more effectively meet the needs of applicants for the Uniform Certified Public Accountant Examination.

**2. Amend Sections 12, 12.5 and 21 of Title 16 of the California Code of Regulations.**

Section 5010 of the Business and Professions Code authorizes the California Board of Accountancy to adopt regulations for the orderly administration of the Accountancy Act. Section 5018 of the Business and Professions Code authorizes the Board to adopt regulations related to rules of professional conduct. Sections 5092, 5093, and 5095 of the Business and Professions Code authorize the Board to adopt regulations to implement those sections related to licensure. Section 5087 of the Business and Professions Code provides for the licensure of Certified Public Accountants licensed in other states.

Current Sections 12 and 12.5 provide the experience requirements for licensure including the experience requirements for an applicant who is licensed in another state and seeks a California license pursuant to Business and Professions Code Section 5087. Sections 12 and 12.5 contain the “four of ten rule” which allows an applicant to meet the Board’s experience requirement by showing that he or she has been engaged in the practice of public accounting as a Certified Public Accountant (CPA) in another state for four of the last ten years. Current Section 21 provides general requirements for the licensure of out-of-state CPAs pursuant to Business and Professions Code Section 5087.

The proposed amendments to Sections 12, 12.5 and 21 delete the provisions in current Sections 12 and 12.5 related to applicants for licensure pursuant to Section 5087 and the “four of ten rule,” relocate those provisions in Section 21, and indicate they are applicable to the education, examination, and experience requirements for licensure of out-of-state CPAs pursuant to Section 5087.

The objective is to apply the “four of ten rule” to education and examination as well as to experience so that the Board’s current requirements in those three areas do not pose an unnecessary barrier to the California license for qualified out-of-state CPAs.

**3. Amend Section 69 of Title 16 of the California Code of Regulations.**

Section 5010 of the Business and Professions Code authorizes the California Board of Accountancy to adopt regulations for the orderly administration of the Accountancy Act. Section 5018 of the Business and Professions Code authorizes the Board to adopt regulations related to rules of professional conduct.

Current Section 69 provides the Board the authority to request a licensee to verify, either in writing or in person, the audit experience obtained by a candidate under the licensee’s supervision. This proposal would update the references to relevant statutes and regulations. The objective of this proposal is to achieve consistency with current laws and regulations related to the attest experience requirement.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None.

Business Impact: The California Board of Accountancy has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

AND

The following studies were relied upon in making that determination: None.

Impact on Jobs/New Businesses: The California Board of Accountancy has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business: The California Board of Accountancy is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None.

#### EFFECT ON SMALL BUSINESS

The California Board of Accountancy has determined that the proposed regulations would affect small businesses.

#### CONSIDERATION OF ALTERNATIVES

The California Board of Accountancy must determine that no reasonable alternative which it considered or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

#### INITIAL STATEMENT OF REASONS AND INFORMATION

The California Board of Accountancy has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

#### TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the California Board of Accountancy at 2000 Evergreen Street, Suite 250, Sacramento, California 95815.

#### AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the Web site listed below.

#### CONTACT PERSON

Inquiries or comments concerning the proposed administrative action may be addressed to:

Name: Aronna Wong

Address: California Board of Accountancy  
2000 Evergreen Street, Suite 250  
Sacramento, CA 95815

Telephone No.: (916) 561-1788

Fax No.: (916) 263-3675

E-Mail Address: awong@cba.ca.gov

The backup contact person is:

Name: Mary Crocker

Address: California Board of Accountancy  
2000 Evergreen Street, Suite 250  
Sacramento, CA 95815

Telephone No.: (916) 561-1713

Fax No.: (916) 263-3675

E-Mail Address: mcrocker@cba.ca.gov

Inquiries concerning the substance of the proposed regulations may be directed to Aronna Wong at (916) 561-1788.

#### WEB SITE ACCESS

Materials regarding this proposal can be found at [www.dca.ca.gov/cba](http://www.dca.ca.gov/cba).

## **TITLE 22. DEPARTMENT OF SOCIAL SERVICES**

### **NOTICE OF PROPOSED CHANGES IN REGULATIONS OF THE CALIFORNIA DEPARTMENT OF SOCIAL SERVICES (CDSS)**

ORD #0505-06

#### **ITEM # 2 Family Connections and Foster Family Agency Reference Checks**

CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held September 14, 2005, as follows:

September 14, 2005

Office Building # 9

744 P St. Auditorium

Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The Department will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in

need of a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on September 14, 2005.

CDSS, upon its own motion or at the instance of any interested party, may adopt the proposals substantially as described or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at <http://www.dss.cahwnet.gov/ord>. Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below.

#### CONTACT

Office of Regulations Development  
California Department of Social Services  
744 P Street, MS 7-192  
Sacramento, California 95814  
TELEPHONE: (916) 657-2586  
FACSIMILE: (916) 654-3286  
E-MAIL: [ord@dss.ca.gov](mailto:ord@dss.ca.gov)

#### CHAPTERS

Title 22, Division 6, Chapter 4 (Small Family Home Licensing Requirements), Section 83068.2 (Needs and Services Plan); Title 22, Division 6, Chapter 5 (Group Home Licensing Requirements), Section 84068.2 (Needs and Services Plan); Title 22, Division 6, Chapter 8.8 (Foster Family Agency) Licensing Requirements), Section 88001 (Definitions), Section 88022 (Plan of Operation), Section 88031 (Application for Certification), Section 88054 (Penalties), Section 88066.2 (Content of Certified Family Home or Licensed Foster Family Home Case Record), Section 88066.3 (Additional Content of Certified Family Home Case Records for Specialized Certified Family

Homes), Section 88068.2 (Needs and Services Plan), Section 88069.7 (Content of Certified Family Home or Licensed Foster Family Home Case Record), Section 88069.8 (Additional Content of Certified Family Home Case Records for Specialized Certified Family Homes); and Title 22, Division 6, Chapter 9.5 (Foster Family Home Licensing Requirements), Section 89405 (Training Requirements) and Section 89468 (Admission Procedures).

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

In 2003 the Legislature enacted Assembly Bill (AB) 458, Chapter 331, Statutes of 2003 which amended Chapter 3, Article 2.7 of the Health and Safety Code to amend Section 1529.2 of the Health and Safety Code. This amendment requires that initial and ongoing training for foster parents must include information on the right of foster children to be free from discrimination for specified reasons. The proposed handbook change will add this information to the existing language from Section 1529.2 of the Health and Safety Code in existing handbook.

In 2004 the Legislature enacted AB 2661, Chapter 643, Statutes of 2004, which amended Chapter 3, Article 1 of the Health and Safety Code to add Sections 1506.7 through 1506.9, and amend Chapter 3, Article 3, Section 1536 of the Health and Safety Code. These amendments establish requirements for foster family agencies to conduct background checks on applicants for certification to operate certified family homes, address confidentiality and liability issues related to these checks, and authorize the California Department of Social Services (CDSS) to assess civil penalties for failure to provide specified reports.

Foster family agencies are authorized to certify applicants to operate certified family homes to provide care and supervision for children under the age of 18. Individuals who have been decertified for violations of licensing regulation or agency policies sometimes attempt to become certified by another agency or licensed by the State or a county as a foster parent. Existing regulations do not have reference-check requirements, and confidentiality provisions have led to uncertainty about the legality and liability of requesting and releasing information about an individual's performance as a certified or licensed foster parent. Foster family agencies also do not always report the certification and decertification information that allows CDSS to track these actions in a timely manner. The proposed regulations will serve to improve the screening process of applicants for certification by providing sanctions for failure to report certifications and decertifications and establishing reference-check procedures that will not result in civil liability or violations of confidentiality laws.



The U.S. Department of Health and Human Services Children's Bureau Report on California's Child and Family Services Review that was released on January 10, 2003 identified concerns about the ability of children in group homes and placed through foster family agencies to maintain family connections. In response to this review, CDSS's Children and Family Services Division developed a Program Improvement Plan that included steps to be taken to ensure that foster children would be able to maintain these connections. One of these steps was to specify, in licensing regulations, the responsibilities of staff in group homes and foster family agencies to ensure that children maintain family connections. The proposed regulations establish requirements more specific than those in existing regulations for group home and foster family agency staff to ensure that this occurs. In the interest of consistency for foster children, the proposed regulations would extend these requirements to all licensed children's residential facilities.

#### **COST ESTIMATE**

1. Costs or Savings to State Agencies: None
2. Costs to Local Agencies or School Districts: None
3. Nondiscretionary Costs or Savings to Local Agencies: None
4. Federal Funding to State Agencies: None

#### **LOCAL MANDATE STATEMENT**

These regulations do not impose a mandate on local agencies or school districts. There are no state-mandated local costs in these regulations which require State reimbursement under Section 17500 et seq. of the Government Code.

#### **STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS**

CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

#### **STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES**

The CDSS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### **SMALL BUSINESS IMPACT STATEMENT**

CDSS has determined that there is no impact on small businesses as a result of filing these regulations because these regulations are only applicable to state and county agencies.

#### **ASSESSMENT OF JOB CREATION OR ELIMINATION**

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

#### **STATEMENT OF EFFECT ON HOUSING COSTS**

The proposed regulatory action will have no effect on housing costs.

#### **STATEMENT OF ALTERNATIVES CONSIDERED**

CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

#### **AUTHORITY AND REFERENCE CITATIONS**

CDSS adopts these regulations under the authority granted in Health and Safety Code Section 1530. Subject regulations implement and make specific Health and Safety Code Sections 1506.7, 1506.8, 1506.9, 1530, 1531, 1536, and 1563.

#### **CDSS REPRESENTATIVE REGARDING RULEMAKING PROCESS OF THE PROPOSED REGULATION**

Contact Person: Susan Kupper  
(916) 657-2586

Backup: Alison Garcia  
(916) 657-2586

### **TITLE 22/MPP. DEPARTMENT OF SOCIAL SERVICES**

#### **NOTICE OF PROPOSED CHANGES IN REGULATIONS OF THE CALIFORNIA DEPARTMENT OF SOCIAL SERVICES (CDSS)**

ORD #0305-04

#### **ITEM # 1 Biennial Rate Application Requirement**

CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held September 14, 2005, as follows:

September 14, 2005  
Office Building # 9  
744 P St. Auditorium  
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The Department will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on September 14, 2005.

CDSS, upon its own motion or at the instance of any interested party, may adopt the proposals substantially as described or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at <http://www.dss.cahwnet.gov/ord>. Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below.

#### CONTACT

Office of Regulations Development  
California Department of Social Services  
744 P Street, MS 7-192  
Sacramento, California 95814  
TELEPHONE: (916) 657-2586  
FACSIMILE: (916) 654-3286  
E-MAIL: [ord@dss.ca.gov](mailto:ord@dss.ca.gov)

#### CHAPTERS

CDSS Manual of Policies and Procedures, Division 11 (Administrative Standards for Eligibility and Assistance Programs), Chapter 11-400 (AFDC—Foster Care Rates), Sections 11-400 (AFDC—Foster Care Rates—Definitions, 11-402 (Group Home Rate Setting), 11-403 (Foster Family Agency Rates), and 11-406 (Definitions—Forms).

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

These proposed regulations amend specific provisions and adopt new language in the California Department of Social Services Manual of Policies and Procedures (MPP) Sections 11-400 et seq., 11-402 et seq., 11-403 et seq., and 11-406 et seq.

The proposed emergency regulations will implement the provisions of Welfare and Institutions Code Sections 11462(a)(3), 11463(i) and 11466.2(a). Welfare and Institutions Code Section 11462(a)(3) requires CDSS to determine the rate classification level (RCL) for each group home program on a biennial basis according to a schedule established by CDSS. Similarly, Welfare and Institutions Code Section 11463(i) requires CDSS to determine the rate category for each foster family agency on a biennial basis according to a schedule established by CDSS. Welfare and Institutions Code Section 11466.2(a) specifies that a non-provisional program audit period may be less than the period for which the rate is established.

Currently, the RCL for a group home program and the rate category for a foster family agency is established on an annual basis. Existing regulations contain provisions regarding the rate application/request due date, what constitutes a complete rate application, when a rate become effective, penalty provisions for submission of an incomplete or late rate application/request, procedures for requesting a “good cause” extension to the rate application/request due date, and the rate termination and reinstatement process. These regulations constitute a scheme for setting rates on an annual basis.

The proposed regulations will amend existing policies and procedures pertaining to the current annual system and adopt additional regulations to implement a biennial system as required by statute. Proposed regulations will revise the rate application/request due date and rate effective date, revise the penalty provisions, revise the due dates related to “good cause” extensions, and add three definitions necessary for clarity. These regulatory amendments are necessary to implement a biennial rate setting system that is coherent and equitable to the persons who are subject to them.

#### COST ESTIMATE

1. Costs or Savings to State Agencies: Savings of approximately \$4,298,240 in the current State Fiscal Year.
2. Costs to Local Agencies or School Districts: N/A
3. Nondiscretionary Costs or Savings to Local Agencies: Savings of approximately \$1,842,124 in the current State Fiscal Year.

4. Federal Funding to State Agencies: Savings of approximately \$6,140,364 in the current State Fiscal Year.

#### **LOCAL MANDATE STATEMENT**

These regulations do impose a mandate upon local agencies but not upon school districts. The mandate is not required to be reimbursed pursuant to part 7 (commencing with Section 17500) of Division 4 of the California Constitution because implementation of the regulations will result in savings.

#### **STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS**

CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

#### **STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES**

The CDSS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### **SMALL BUSINESS IMPACT STATEMENT**

The biennial rate application requirement affects Foster Family Agency providers and Group Home providers as non profit corporations operating as small businesses in California. Foster Family Agency and Group Home providers are legally required to comply with the regulations (biennial rate application requirements) as outlined in CDSS, MPP Division 11.

#### **ASSESSMENT OF JOB CREATION OR ELIMINATION**

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

#### **STATEMENT OF EFFECT ON HOUSING COSTS**

The proposed regulatory action will have no effect on housing costs.

#### **STATEMENT OF ALTERNATIVES CONSIDERED**

CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

#### **AUTHORITY AND REFERENCE CITATIONS**

CDSS adopts these regulations under the authority granted in Welfare and Institutions Code Sections 10553, 10554, 11462(a)(3)(B), and 11463(i)(2). Subject regulations implement and make specific Welfare and Institutions Code Sections 11462(a)(3), 11462.06(d)(1) and (2), and 11463(i); and Section 4980.08 Business and Professions Code.

#### **CDSS REPRESENTATIVE REGARDING RULEMAKING PROCESS OF THE PROPOSED REGULATION**

Contact Person: Everardo Vaca  
(916) 657-2586

Backup: Alison Garcia  
(916) 657-2586

#### **EMERGENCY STATEMENT**

These regulations are to be adopted on an emergency basis. In order to allow interested persons an opportunity to submit statements or arguments concerning these regulations, they will be considered at public hearing in accordance with Government Code Section 11346.4.

### **GENERAL PUBLIC INTEREST**

#### **DEPARTMENT OF HEALTH SERVICES**

#### **THE DEPARTMENT OF HEALTH SERVICES INTENDS TO ESTABLISH A COST-BASED REIMBURSEMENT METHODOLOGY FOR COUNTY OWNED OR OPERATED CLINICS AND HOSPITAL OUTPATIENT DEPARTMENTS EXCEPT FOR EMERGENCY ROOMS**

This notice is to provide information of public interest with respect to cost-based reimbursement methodology for services rendered to Medi-Cal beneficiaries in county owned or operated clinics and hospital outpatient departments with the exception of services rendered in emergency rooms. The clinics subject to this methodology must be located in a county designated as of the "first class" as defined in California Government Code section 28022. The Department of Health Services (DHS) intends to submit an amendment to California's Medicaid State Plan, to establish a cost-based reimbursement methodology effective on or after August 1, 2005, for the services provided by the above-mentioned clinics and hospital outpatient departments.



**COST-BASED REIMBURSEMENT  
METHODOLOGY FOR COUNTY OWNED OR  
OPERATED CLINICS AND HOSPITAL  
OUTPATIENT DEPARTMENTS, EXCEPT FOR  
EMERGENCY ROOMS, IN COUNTIES OF  
THE FIRST CLASS**

DHS intends to submit new language to the California's Medicaid State Plan that services rendered to Medi-Cal beneficiaries in county owned or operated clinics that have not achieved FQHC status or hospital outpatient departments, except for emergency rooms, which are located in "counties of the first class", will be reimbursed under a cost-based reimbursement methodology. This rate methodology is 100% percent of reasonable costs and is effective on or after July 1, 2005. DHS will determine reasonable and allowable costs in accordance with applicable cost-based reimbursement provisions of the regulations and publications pertaining to cost-based reimbursement methodology.

**PUBLIC REVIEW**

Copies of the proposed changes are available for public review at local county welfare offices throughout the State. Any person may submit written comments to or request a copy of the proposed changes from Marie Taketa, Chief, Rate Analysis Unit, Department of Health Services, 1510 Capitol Avenue, Suite 71.4001, MS 4612, P.O. Box 997417, Sacramento, CA 95899-7417.

**DEPARTMENT OF  
HEALTH SERVICES**

**THE DEPARTMENT OF HEALTH SERVICES  
INTENDS TO SUBMIT A STATE PLAN  
AMENDMENT TO CONTINUE MEDI-CAL  
LONG-TERM CARE REIMBURSEMENT RATES  
FOR SUBACUTE SERVICES IN DP/NFs**

The Department of Health Services (DHS) is issuing this public notice to provide information regarding the setting of Medi-Cal reimbursement rates for subacute care services provided in distinct part nursing facilities (DP/NFs) for the rate year 2005–2006. DHS intends to submit an amendment to California's Medicaid State Plan, to continue Medi-Cal reimbursement rate changes for subacute services, effective August 1, 2005.

**REVISION TO SUBACUTE REIMBURSEMENT  
RATE METHODOLOGY**

Currently, the DP/NF subacute reimbursement rate methodology in the State Plan requires DHS to pay providers the lesser of their projected costs or the cost of their prospective class median. As a result of a decrease in their projected costs, a number of DP/NFs

have projected rate decreases for 2005–2006. To prevent rate decreases for facilities that would otherwise experience a decrease, DHS proposes to continue the reimbursement rate from 2004–2005 for subacute services provided in DP/NFs.

This amendment also clarifies that DHS includes twelve or more months of subacute audited cost report data to set the final prospective rate for DP/NF subacute services.

**PUBLIC REVIEW**

Copies of the proposed changes are available for public review at local county welfare offices throughout the state. Any person may submit written comments to or request copies of the proposed changes from:

Karen Hobson, Chief  
Long-Term Care Reimbursement Unit  
Department of Health Services  
P.O. Box 942732  
Mail Stop 4600  
Sacramento, CA 95814

**DEPARTMENT OF  
HEALTH SERVICES**

**THE DEPARTMENT OF HEALTH SERVICES TO  
INCREASE MEDI-CAL REIMBURSEMENT FOR  
SPEECH GENERATING DEVICES**

This notice is being given to provide information of public interest with respect to the reimbursement methodology for Speech Generating Devices (SGDs) that have published 2005 Medicare rates. These proposed changes will be reflected in an amendment to California's Medicaid State Plan and will be effective for dates of service on or after July 30, 2005.

It is the intent of the Department of Health Services to adopt revised reimbursement methodology for SGDs, as follows:

- In compliance with Welfare & Institutions Code section 14105.48 and the Fiscal Year 2005–2006 Budget Trailer Bill, maximum reimbursement for the following SGD codes, with published 2005 Medicare rates, will be the lesser of: (1) amount billed; or (2) 100% of the published Medicare reimbursement amount.
- The SGD Codes are: E2500, E2502, E2504, E2506, E2508, and E2510.

These proposed changes will impact the following provider categories:

- Audiologists, hospital outpatient departments and clinics, other outpatient clinics, durable medical equipment and medical supply dealers, physicians,

providers of services under the California Children's Services/Genetically Handicapped Persons Program, and Speech Therapists.

#### **PUBLIC REVIEW**

The changes discussed above are available for public review at local county welfare offices throughout the State. Copies of the proposed change and the list of billing codes for SGDs affected by reimbursement methodology changes may be requested in writing to Kathleen Menda, Chief, Professional Provider Unit, Department of Health Services, 1501 Capitol Avenue, MS 4612, P.O. Box 997417, Sacramento, CA 95899-7417.

Written comments must be submitted to the address above within 45 days from the publication date of these changes in the California Administrative Notice Register. All comments should include the author's name, organization or affiliation, phone number and Provider ID number, if appropriate.

### **DEPARTMENT OF HEALTH SERVICES**

#### **NOTICE OF GENERAL PUBLIC INTEREST REGARDING THE DEPARTMENT OF HEALTH SERVICES' INTENT TO CHANGE THE REIMBURSEMENT METHODOLOGY FOR CALIFORNIA'S SAFETY NET HOSPITALS**

This notice is to provide updated information of public interest regarding the State's intent to convert its current financing methodology for California's safety net hospitals that serve Medi-Cal beneficiaries and under- and uninsured individuals. To accomplish this change, the Department of Health Services (DHS) is currently negotiating with the federal Centers for Medicare & Medicaid Services (CMS) the terms and conditions of a new Section 1115 demonstration project. Additionally, DHS will submit to CMS a State Plan Amendment (SPA) under Title XIX of the Social Security Act. The new payment methodology will be effective August 1, 2005.

#### **CHANGE IN REIMBURSEMENT METHODOLOGY FOR SAFETY NET HOSPITALS**

California's public safety net hospitals and health systems are distinguished by their deep-rooted commitment to provide healthcare access to Medi-Cal beneficiaries and to people with limited or no health insurance. To secure critical federal funds available to serve this population, DHS will convert the current reimbursement methodology for identified 22 public hospitals from negotiated per diem rates and supplemental payments to a cost-based reimbursement methodology using certified public expenditures

(CPEs). The CPE methodology will allow public hospitals and clinics to certify their costs of providing Medi-Cal services to Medi-Cal beneficiaries as well as their costs of providing healthcare services to uninsured, indigent persons not eligible for Medi-Cal. Based on the CPEs, a prospective per diem rate of reimbursement will be established annually for inpatient services provided at each hospital. DHS will reconcile prospective payments to actual costs determined for the particular year from the audited cost report, when it becomes available. DHS will ensure that no hospital's baseline funding will decrease below the funding level that each hospital would have received under payment processes that were in existence in Fiscal Year 2004-05.

DHS will continue the current partnership with the California Medical Assistance Commission (CMAC) to negotiate per diem rates and supplemental payments to those hospitals that do not receive payments under the CPE methodology.

The waiver will have no impact on the Medi-Cal funding received by non-contract hospitals.

#### **CHANGE IN THE DISPROPORTIONATE SHARE HOSPITAL PROGRAM**

The State intends to change hospital eligibility for the Disproportionate Share Hospital (DSH) program and the primary data sources used to determine hospital-specific payment amounts. To accomplish this change, DHS will submit a SPA to CMS. The transition from the current program methodology to the new methodology is to be effective for DSH program year 2005-06.

Increased pressure from CMS to eliminate the use of intergovernmental transfers that CMS deems inappropriate will require significant changes in hospital finance methodology, as outlined above. In the new hospital finance methodology, private hospitals will receive equivalent DSH funding through the new Section 1115 demonstration project. Therefore, the State will limit participation in the DSH program to public hospitals. All University of California Medical Centers will be deemed eligible for the DSH program annually, regardless of the hospital-specific DSH eligibility statistics. Only public hospitals eligible to draw funds from a newly created Safety Net Care Pool may receive DSH funding for costs above 100 percent. In addition, the primary data source used to identify hospital patient expenses will change from the Office of Statewide Health Planning and Development Annual Financial Disclosure Report to the CMS Hospital and Hospital Health Care Complex Cost Report (Form CMS-2552-96).

#### **PUBLIC REVIEW**

The terms and conditions of the waiver, and the draft SPAs detailing the proposed financing methods

stated above, will be available for review at local county welfare offices throughout the State, when the documents become available. Interested persons may request copies of the documents, and may send written comments to Nancy Hutchison, Chief, Inpatient Contract & Monitoring Section, Medi-Cal Operations Division, Department of Health Services, 1501 Capitol Avenue, MS 4506, P.O. Box 997419, Sacramento, CA 95899-7419, or via e-mail at NHutchis@dhs.ca.gov.

## **DECISION NOT TO PROCEED**

### **DEPARTMENT OF SOCIAL SERVICES**

Pursuant to Government Code Section 11347(a), the California Department of Social Services (CDSS) hereby notices that it has decided to not proceed with the proposed regulatory action in Manual of Policies and Procedures Division 11, Chapter 11-500, Section 11-501; Division 42, Chapter 42-300, Section 42-302; Chapter 42-700, Sections 42-701, 42-710, 42-711, 42-712, 42-713, 42-715, 42-716, 42-718, 42-719, 42-720, 42-721, and 42-722; Chapter 42-800, Section 42-802; Chapter 42-1000, Sections 42-1009 and 42-1010; Division 44, Chapter 44-100, Section 44-111; and Division 63, Chapter 63-400, Section 63-407 as was noticed in Z-05-0516-03, California Regulatory Notice Register 2005, Volume No. 21-Z, pages 742-744, SB 1104 CalWORKs Regulations, (ORD 0305-03).

## **SUMMARY OF REGULATORY ACTIONS**

### **REGULATIONS FILED WITH SECRETARY OF STATE**

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA, 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

#### **DEPARTMENT OF MOTOR VEHICLES Social Security Account Number Verification**

Establishes procedures for verification of social security numbers on applications for drivers licenses and identification cards.

Title 13  
California Code of Regulations  
ADOPT: 15.04  
Filed 07/19/05  
Effective 08/18/05  
Agency Contact: Randi Stehle (916) 657-8898

#### **FAIR POLITICAL PRACTICES COMMISSION Return of Contributions with Insufficient Donor Information**

This action concerns what happens to contributions that are returned by check but which are not cashed by the original contributor.

Title 2  
California Code of Regulations  
AMEND: 18570  
Filed 07/20/05  
Effective 08/19/05  
Agency Contact: Theis Finley (916) 322-5660

#### **FAIR POLITICAL PRACTICES COMMISSION Reporting Requirements—CalPERS**

The Fair Political Practices Commission is amending section 18452, title 2, California Code of Regulations, entitled "Reporting Requirements."

Title 2  
California Code of Regulations  
AMEND: 18452  
Filed 07/18/05  
Effective 08/17/05  
Agency Contact: Galena West (916) 322-5660

#### **FAIR POLITICAL PRACTICES COMMISSION Extensions of Credit**

This action defines what "Extensions of Credit" of goods or services are between a provider and a candidate or committee and whether such extensions of credits are deemed contributions.

Title 2  
California Code of Regulations  
ADOPT: 18530.7  
Filed 07/20/05  
Effective 08/19/05  
Agency Contact:  
Natalie Bocanegra (916) 322-5660

#### **FISH AND GAME COMMISSION Mammal Hunting Regulations 2005-2006**

This regulatory action amends the mammal hunting regulations for 2005-2006. The amendments include the following: tag quota changes, clarification of the meaning of disability as it applies to disabled archers and the age requirements when applying for license tags, and adjustments of license and permit fees pursuant to Fish and Game Code section 713, plus other amendments.



Title 14  
California Code of Regulations  
AMEND: 354, 360, 361, 362, 363, 478.1, 708  
Filed 07/19/05  
Effective 07/19/05  
Agency Contact: Jon Snellstrom (916) 653-4899

**FISH AND GAME COMMISSION**

**Transferability of Commercial Spiny Lobster Permits**

This action establishes the transferable lobster operator permit program.

Title 14  
California Code of Regulations  
AMEND: 122 REPEAL: Appendix A, Form DFG 122  
Filed 07/13/05  
Effective 07/13/05  
Agency Contact: Sherrie Koell (916) 653-4899

**RESPIRATORY CARE BOARD**

**Law and Professional Ethics Course Requirements**

This regulatory action requires licensed respiratory care practitioners and applicants for respiratory care licenses to successfully complete a course in law and professional ethics.

Title 16  
California Code of Regulations  
ADOPT: 1399.327, 1399.350.5, 1399.352.7, 1399.372.5  
Filed 07/18/05  
Effective 08/17/05  
Agency Contact:  
Christine Molina (916) 323-9983

**SAN JOAQUIN RIVER CONSERVANCY**

**Conflict of Interest Code**

This is a Conflict of Interest Code that has been approved by the Fair Political Practices Commission and is being submitted for filing with the Secretary of State only.

Title 2  
California Code of Regulations  
AMEND: 55400  
Filed 07/18/05  
Effective 08/17/05  
Agency Contact: Candyce Rogers (559) 253-7324

**STATE WATER RESOURCES CONTROL BOARD**  
**Petroleum UST Grant & Loan Program**

This filing is a certificate of compliance for an emergency regulatory action which defined terms and prescribed the allowable purposes and procedure for a grant and loan program intended to aid individuals and small businesses in upgrading, replacing, or removing underground storage tanks to meet applicable standards.

Title 23  
California Code of Regulations  
ADOPT: 3420, 3421, 3422, 3423, 3424, 3425, 3426, 3427, 3428  
Filed 07/13/05  
Effective 08/12/05  
Agency Contact: Kelly Valine (916) 327-6976

**CCR CHANGES FILED WITH THE  
SECRETARY OF STATE  
WITHIN FEBRUARY 23, 2005  
TO JULY 20, 2005**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulation's titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

**Title 2**

07/20/05 AMEND: 18570  
07/20/05 ADOPT: 18530.7  
07/18/05 AMEND: 18452  
07/18/05 AMEND: 55400  
07/06/05 AMEND: 7286.0  
06/24/05 AMEND: 599.502, 599.506  
06/21/05 AMEND: 18705.5  
06/16/05 AMEND: Div. 8, Ch. 4, section 25001  
06/14/05 ADOPT: 18750.2, 18755 AMEND: 18702.4  
05/31/05 ADOPT: 1859.300, 1859.301, 1859.302, 1859.310, 1859.311, 1859.312, 1859.313, 1859.314, 1859.315, 1859.316, 1859.317, 1859.318, 1859.319, 1859.320, 1859.321, 1859.322, 1859.323, 1859.323.1, 1859.323.2, 1859.324 1859.325, 1859.326, 1859.327, 1859.328, 185  
05/27/05 AMEND: 1859.2  
05/27/05 AMEND: 20107  
05/26/05 AMEND: 1859.2, 1859.81, 1866  
05/26/05 ADOPT: 18465.1  
05/24/05 ADOPT: 1859.23 AMEND: 1859.2, 1859.122, 1859.123, 1859.123.1  
05/12/05 ADOPT: 1859.71.4, 1859.78.1 AMEND: 1859.2, 1859.73.2 1859.79.2, 1859.82, 1859.83, 1859.125, 1859.125.1, 1859.145, 1859.163.1, 1859.164.2  
05/03/05 ADOPT: 20800.1, 20800.2, 20800.3, 20800.4, 20800.5, 20800.6, 20800.7, 20800.8, 20800.9, 20801.1, 20801.2, 20801.3 AMEND: 20800, 20801, 20802

05/02/05 ADOPT: 18640 AMEND: 18941.1,  
18946, 18946.1, 18946.2, 18946.4  
04/26/05 AMEND: 1859.2, 1859.42  
04/19/05 AMEND: 172.4, 172.5, 172.6, 172.7,  
172.8, 172.9, 172.10  
03/21/05 AMEND: 549.70, 549.71, 549.72, 549.74  
03/02/05 AMEND: 1859.73.2, 1859.145.1  
02/28/05 AMEND: 1859.71.3, 1859.78.5  
02/28/05 AMEND: 1859.2  
02/28/05 AMEND: 1859.2  
02/24/05 AMEND: 211  
02/23/05 ADOPT: 1859.90.1 AMEND: 1859.2

### **Title 3**

07/11/05 AMEND: 3423(b)  
07/01/05 AMEND: 2311(b)  
06/27/05 ADOPT: 3591.18  
06/22/05 AMEND: 3430(b)  
06/09/05 ADOPT: 3700  
06/03/05 ADOPT: 3963  
05/23/05 AMEND: 3636(a)(c)  
05/16/05 AMEND: 6388  
05/09/05 ADOPT: 1392.2(t), 1392.4(h), 1392.4(i),  
1392.4(j), 1392.9(c), 1392.9(d),  
04/15/05 AMEND: 1446.9(c), 1454.16(c)  
04/04/05 AMEND: 6400  
03/07/05 ADOPT: 1392.8.1(3) AMEND:  
1392.8.1.(2)  
03/01/05 ADOPT: 796, 796.1, 796.2, 796.3, 796.4,  
796.5, 796.6, 796.7, 796.8, 796.9  
AMEND: Article 8 heading REPEAL:  
795.10, 795.13, 795.14, 795.16, 795.17,  
795.19, 795.30, 795.32, 795.33, 795.50  
02/28/05 AMEND: 3430(b)  
02/24/05 AMEND: 1280.2  
02/23/05 AMEND: 3423(b)

### **Title 4**

06/27/05 ADOPT: 10175, 10176, 10177, 10178,  
10179, 10180, 10181, 10182, 10183,  
10184, 10185, 10186, 10187, 10188,  
10189, 10190, 10191  
05/26/05 ADOPT: 7030, 7031, 7032, 7033, 7034,  
7035, 7036, 7037, 7038, 7039, 7040,  
7041, 7042, 7043, 7044, 7045, 7046,  
7047, 7048, 7049, 7050  
04/27/05 AMEND: 1844, 1845  
04/04/05 ADOPT: 10300, 10302, 10305, 10310,  
10315, 10317, 10320, 10322, 10325,  
10326, 10327, 10328, 10330, 10335,  
10337  
03/22/05 AMEND: 12250, 12270, 12271, 12272  
02/28/05 AMEND: 2424

### **Title 5**

07/12/05 AMEND: 22000  
06/23/05 ADOPT: 11992, 11993, 11994  
06/22/05 ADOPT: 11967.6, 11967.7, 11967.8  
AMEND: 11967, 11968 11969  
06/20/05 ADOPT: 19817.1, 19826.1, 19828.1,  
19837 AMEND: 19813 19814, 19814.1,  
19817, 19826, 19828  
06/09/05 ADOPT: 11511.6, 11516.6, 11516.7,  
11517.5 AMEND: 11510, 11511,  
11515.5, 11512, 11512.5, 11513, 11513.5,  
11514, 11516, 11516.5, 11517  
06/08/05 ADOPT: 17101 AMEND: 9531  
05/26/05 AMEND: 30060  
05/26/05 AMEND: 80413  
05/06/05 ADOPT: 19850, 19851, 19852, 19853,  
19854 AMEND: 19813, 19814, 19814.1  
05/06/05 ADOPT: 18220.2, 18224.2, 18224.4,  
1840.5, 18249 AMEND: 18220, 18240,  
18248  
05/06/05 ADOPT: 18092.5 AMEND: 18066,  
18069, 18078, 18081, 18083, 18084,  
18092, 18103, 18106, 18109, 18110  
05/06/05 ADOPT: 3075.1, 3075.2, 3075.3,  
3075.4 AMEND: 13075  
05/05/05 ADOPT: 80021, 80021.1  
04/14/05 AMEND: 19836  
03/24/05 ADOPT: 80307 AMEND: 80300, 80303,  
80310, 80412 REPEAL: 80307  
03/21/05 AMEND: 19828.1  
03/02/05 AMEND: 55607, 59509 REPEAL: 55310

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06/28/05 AMEND: 3541, 3542, 3543, 3544, 3545,  
3546, 3548, 3549  
06/20/05 ADOPT: 9767.1, 9767.2, 9767.3, 9767.4,  
9767.5, 9767.6, 9767.7, 9767.8, 9767.9,  
9767.10, 9767.11, 9767.12, 9767.13,  
9767.14  
06/20/05 AMEND: 3649, 3651(a)  
06/15/05 AMEND: 1670(b)(11)(B)  
06/10/05 ADOPT: 9768.1, 9768.2, 9768.3, 9768.4,  
9768.5, 9768.6 9768.7, 9768.8, 9768.9,  
9768.10, 9768.11, 9768.12 9768.13,  
9768.14, 9768.15, 9768.16, 9768.17  
06/10/05 ADOPT: 9785.4, 9805.1 AMEND: 9725,  
9726, 9727, 9785, 9785.2, 9785.3, 9805,  
10150, 10152, 10156, 10158 10160,  
10161, 10163, 10165.5 REPEAL: 10151,  
10154  
06/06/05 ADOPT: 10133.50, 10133.51, 10133.52,  
10133.53, 10133.54, 10133.55, 10133.56,  
10133.57, 10133.58, 10133.59, 10133.60  
05/31/05 ADOPT: 32032, 32033, 32034, 32035,  
32606, 32607, 32608, 32609, 81000,  
81005, 81010, 81020, 81030, 81040,  
81050, 81055, 81060, 81065, 81070,

81075, 81080, 81090, 81100, 81105,  
81110, 81115, 81120, 81125, 81130,  
81135, 81140, 81145, 81150, 81155,  
81160, 81

05/24/05 AMEND: 3999

05/12/05 AMEND: 9789.11

04/29/05 AMEND: 3456

04/28/05 AMEND: 1637

04/19/05 REPEAL: 16003

04/14/05 AMEND: 8354, 8397.10, 8397.11,  
8397.12, 8397.13.

04/06/05 AMEND: 230.2

04/06/05 ADOPT: 9792.6, 9792.7, 9792.8, 9792.9,  
9792.10, 9792.11 REPEAL: 9792.6

03/16/05 AMEND: 344.30

03/08/05 AMEND: 15220, 15220.1, 15220.3,  
15220.4

03/07/05 AMEND: 5144

02/28/05 ADOPT: 9767.1, 9767.2, 9767.3, 9767.4,  
9767.5, 9767.6, 9767.7, 9767.8, 9767.9,  
9767.10, 9767.11, 9767.12, 9767.13,  
9767.14

#### **Title 9**

03/25/05 ADOPT: 13000, 13005, 13010, 13015,  
13020, 13025, 13030, 13035, 13040,  
13045, 13050, 13055, 13060, 13065,  
13070, 13075 AMEND: 9846, 10125,  
10564

#### **Title 10**

07/07/05 AMEND: 4010, 4011, 4013, 4016, 4018,  
4019, 5000, 5001, 5002, 5003, 5005,  
5006, 5007, 5008, 5009, 5010, 5013,  
5020, 5050, 5051, 5060, 5061, 5070,  
5110, 5111, 5112, 5113, 5114, 5115,  
5116, 5117, 5118, 5119, 5260, 5261,  
5262, 5263, 5264, 5266, 5267, 5268,

06/30/05 AMEND: 2699.6600, 2699.6809

06/23/05 AMEND: 2498.6

06/22/05 AMEND: 260.102.14

06/03/05 AMEND: 2698.70, 2698.71

06/03/05 AMEND: 2698.61, 2698.62

05/05/05 ADOPT: 2805, 2805.5, 2805.9, 2805.11,  
2806, 2807, 2807.1, 2807.2, 2807.3,  
2807.4, 2808, 2809, 2809.1, 2809.2,  
2809.3, 2809.5, 2810, 2810.5, 2811  
AMEND: 2814 REPEAL: 2805, 2805.1,  
2805.1.5, 2806, 2806.5, 2810, 2810.1,  
2810.2, 2810.3, 2810.4, 2810.6, 28

04/29/05 AMEND: 2698.30, 2698.31, 2698.32,  
2698.33, 2698.34, 2698.35, 2698.36,  
2698.37, 2698.38, 2698.39, 2698.40,  
2698.41 REPEAL: 2698.40, 2698.41,  
2698.42, 2698.43, 2698.44, 2698.45

04/01/05 AMEND: 260.140.72, 260.140.72.1,  
260.140.72.5

04/01/05 ADOPT: 2218.60, 2218.61, 2218.62,  
2218.63

03/25/05 AMEND: 1556

03/17/05 ADOPT: 2712 AMEND: 2835, 2840,  
2840.1, 2851, 2930

03/02/05 AMEND: 2318.6, 2353.1, 2354

#### **Title 11**

06/24/05 AMEND: 63.2

06/15/05 AMEND: 1005, 1007, 1008

06/15/05 AMEND: 1053

06/13/05 ADOPT: 308, 312.1 AMEND: 300, 301,  
302, 303, 304, 305, 306, 307, 310, 311,  
312

05/11/05 ADOPT: 61.9

05/09/05 ADOPT: 28.4

05/04/05 ADOPT: 51.23

05/04/05 ADOPT: 61.8

05/04/05 ADOPT: 51.25

05/04/05 AMEND: 51.2

05/04/05 AMEND: 51.7

05/03/05 AMEND: 51.15

05/03/05 AMEND: 51.24

05/03/05 AMEND: 51.14

05/03/05 AMEND: 51.12

03/30/05 ADOPT: 2037, 2038 AMEND: 2010,  
2037, 2038, 2050

03/30/05 AMEND: 970, 970.1, 972, 972.1, 972.2,  
972.4, 972.5 972.6, 972.7, 972.9, 973,  
973.1, 974, 974.1, 975, 975.1, 975.2,  
975.3, 975.4, 975.5, 975.6, 976, 976.1  
976.2, 976.3, 976.4 REPEAL: 975.1

03/15/05 ADOPT: 996

#### **Title 12**

06/14/05 AMEND: 503(f)

#### **Title 13**

07/19/05 ADOPT: 15.04

05/31/05 AMEND: 551.1, 551.6, 555, 558, 560,  
561, 580, 583, 585, 586, 595, 597

05/03/05 ADOPT: 159.10

03/30/05 AMEND: 25.15, 25.18, 25.19, 25.22

03/21/05 ADOPT: 2011 AMEND: 2180.1, 2181,  
2184, 2185, 2186, 2192, 2194

03/10/05 AMEND: 2260, 2262, 2262.4, 2262.5,  
2262.6, 2262.9, 2263, 2265, 2266.5

#### **Title 13, 17**

07/05/05 ADOPT: 2299 (Title 13), 93117 (Title 17)  
AMEND: 2281 (Title 13), 2282  
(Title 13), 2284 (Title 13)

#### **Title 14**

07/19/05 AMEND: 354, 360, 361, 362, 363, 478.1,  
708

07/13/05 AMEND: 122 REPEAL: Appendix A,  
Form DFG 122

06/21/05 AMEND: 895, 895.1, 1038, 1038(f)

06/09/05 AMEND: 27.80



06/09/05 AMEND: 782  
 05/12/05 AMEND: 180.3  
 05/12/05 AMEND: 120.01  
 05/11/05 AMEND: 601  
 05/11/05 AMEND: 180.15  
 05/11/05 AMEND: 231  
 05/11/05 AMEND: 150.05  
 05/11/05 AMEND: 150.03  
 05/10/05 AMEND: 150  
 05/10/05 AMEND: 150.02  
 05/10/05 AMEND: 551  
 05/05/05 AMEND: 165  
 04/25/05 AMEND: 851.23  
 04/25/05 ADOPT: 1038(i) AMEND: 1038(e)  
 04/25/05 ADOPT: 18456.2.1, 18460.2.1 AMEND:  
 18449, 18450, 18451, 18456, 18459,  
 18459.1, 18459.2.1, 18459.3, 18461,  
 18462  
 04/22/05 AMEND: 149.1  
 04/19/05 AMEND: 670.2  
 04/13/05 AMEND: 2030, 2305, 2310, 2505, 2960  
 04/11/05 ADOPT: 4970.02, 4970.03, 4970.04,  
 4970.05, 4970.06, 4970.07, 4970.08,  
 4970.09, 4970.10, 4970.11, 4970.12,  
 4970.13, 4970.14, 4970.15, 4970.16,  
 4970.17, 4970.18, 4970.19, 4970.20,  
 4970.21 AMEND: 4970.00, 4970.01 RE-  
 PEAL: 4970.02, 4970.03, 4970.04,  
 4970.05  
 04/07/05 ADOPT: 1.71 AMEND: 2.09, 2.10, 5.00  
 04/04/05 AMEND: 119900  
 03/30/05 AMEND: 825.03, 825.05, 826.01,  
 826.03, 829.04, 829.05, 827.02  
 03/30/05 AMEND: 852, 852.2, 852.3  
 03/28/05 ADOPT: 53.00, 53.01, 53.02, 53.03,  
 149.1, 149.3 AMEND: 149  
 03/25/05 ADOPT: 745.5 AMEND: 746  
 03/14/05 AMEND: 150  
 03/08/05 AMEND: 29.05, 29.40, 30.00, 120.7,  
 122, 123, 149, 165, 180, 630, 632, 747  
 REPEAL: 27.20, 27.25, 27.30, 27.35,  
 27.40, 27.42, 27.45, 27.50, 27.51, 630.5  
 03/01/05 AMEND: 52.10, 150.16  
 02/28/05 AMEND: 670.5  
 02/28/05 ADOPT: 125

#### **Title 15**

07/07/05 ADOPT: 3187 AMEND: 3006, 3188,  
 3189, 3331  
 06/27/05 REPEAL: 3999.1.7  
 06/22/05 AMEND: 2000, 2400, 2403  
 06/21/05 REPEAL: 3999.1.3  
 06/21/05 REPEAL: 3999.1.2  
 06/15/05 AMEND: 3335

06/08/05 ADOPT: 2251.5, 2251.6, 2251.7  
 AMEND: 2041, 2072, 2073, 2074 RE-  
 PEAL: 2050, 2051, 2052, 2054, 2055,  
 2056, 2701  
 06/02/05 AMEND: 1006, 1010, 1018, 1020, 1021,  
 1023, 1025, 1028 1029, 1045, 1046,  
 1051, 1052, 1065, 1083, 1144, 1206,  
 1209, 1240, 1241, 1242, 1243, 1245,  
 1246, 1247, 1248, 1262, 1265, 1267,  
 1270, 1271 REPEAL: 1218  
 06/01/05 ADOPT: 4141, 4141.1  
 05/26/05 AMEND: 3287  
 03/01/05 ADOPT: 3999.1.8, 3999.1.9, 3999.1.10,  
 3999.1.11

#### **Title 16**

07/18/05 ADOPT: 1399.327, 1399.350.5,  
 1399.352.7, 1399.372.5  
 07/12/05 AMEND: 1397.51  
 07/06/05 ADOPT: 1922.3, 1993.1 AMEND:  
 1950.5, 1951, 1953  
 07/05/05 ADOPT: 1398.26.1  
 07/05/05 ADOPT: 1399.454 AMEND: 1399.450,  
 1399.451  
 06/22/05 AMEND: 1041  
 05/31/05 AMEND: 4154  
 05/12/05 AMEND: 1491  
 05/10/05 ADOPT: 2293, 2294  
 04/28/05 ADOPT: 1070.3  
 04/25/05 AMEND: 1805.1, 1807, 1807.2, 1811,  
 1816, 1816.1, 1816.4, 1833, 1833.1,  
 1833.2, 1846, 1846.1, 1850.7, 1874,  
 1886, 1887.4, 1887.9, 1889, 1889.1,  
 1889.2, 1889.3  
 04/21/05 AMEND: 1399.155  
 04/21/05 AMEND: 1398.38  
 04/14/05 AMEND: 1071, 1083  
 04/14/05 AMEND: 1398.30  
 04/14/05 AMEND: 54.1, 54.2  
 03/28/05 AMEND: 1399.688  
 03/17/05 ADOPT: 869.1, 869.2, 869.3, 869.4,  
 869.5  
 03/16/05 ADOPT: 4160, 4161, 4162, 4163  
 03/08/05 ADOPT: 4200, 4202, 4204, 4206, 4208,  
 4210, 4212, 4216, 4218, 4220, 4222,  
 4224, 4226, 4230, 4232, 4234, 4236,  
 4240, 4242, 4244, 4246, 4248, 4250,  
 4252, 4254, 4256, 4258, 4260, 4262,  
 4264, 4266, 4268  
 03/08/05 ADOPT: 2624.1 AMEND: 2604, 2615,  
 2624  
 03/07/05 ADOPT: 1358.1  
 03/07/05 ADOPT: 2755 AMEND: 2756

03/03/05 AMEND: 1399.500, 1399.501, 1399.502, 1399.506, 1399.512, 1399.521, 1399.530, 1399.543, 1399.546 REPEAL: 1399.519, 1399.522, 1399.553, 1399.554, 1399.555  
03/01/05 AMEND: 1005

**Title 17**

07/11/05 AMEND: 54319  
06/23/05 AMEND: 60201, 60202, 60205, 60210  
06/22/05 ADOPT: 30194.1, 30194.2 AMEND: 30100, 30145, 30145.1, 30225, 30230, 30231, 30408, 30535 REPEAL: 30232  
06/20/05 AMEND: 94501, 94506, 94507, 94508, 94509, 94510, 94512, 94513, 94515, 94526, & Test Method  
05/18/05 AMEND: 50604, 50605, 54310, 54320, 54326, 54332, 54335  
05/12/05 ADOPT: 1029.117, 1029.134, 1031.8, 1031.9, 1032.5, 1035.3, 1035.4  
05/02/05 ADOPT: 50243, 50245, 50247, 50249, 50251, 50253, 50255, 50257, 50259, 50261, 50262, 50263, 50265, 50267  
04/26/05 AMEND: 3030  
04/04/05 AMEND: 93115  
03/30/05 ADOPT: 54351, 58800, 58811, 58812, AMEND: 54302, 54310 54320, 54370  
03/24/05 AMEND: 94011  
03/03/05 ADOPT: 90805, 90806 AMEND: 90800.8, 90803

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07/08/05 ADOPT: 4056.1  
06/07/05 ADOPT: 1160, 1214, 1331.2, 1425, 2257, 2333, 2425, 2520, 3005, 3303, 3503, 4031.1, 4905  
05/05/05 AMEND: 18522, 18526, 18523, 18530  
05/04/05 AMEND: 6001  
04/29/05 ADOPT: 4056.1  
04/07/05 AMEND: 1703  
03/30/05 AMEND: 5041, 5073, 5076, 5082.2  
03/18/05 AMEND: 27  
03/18/05 AMEND: 1566  
03/15/05 ADOPT: 20501, 20502, 20503, 20504, 20505  
03/08/05 AMEND: 1610  
03/03/05 AMEND: 1620

**Title 19**

05/26/05 AMEND: 3.11  
03/01/05 AMEND: 2703(d), 2705(b), 2705 (Emergency Release Follow-Up Notice Reporting Form Instructions)

**Title 20**

03/16/05 AMEND: 1601, 1602, 1603, 1605.1, 1605.2, 1605.3, 1606, 1607, 1608  
03/07/05 ADOPT: 2.3.1 AMEND: 8.2

**Title 21**

06/03/05 ADOPT: 4059, 4060, 4062.1, 4066, 4067, 4069, 4072.1 AMEND: 4050, 4052, 4055, 4056, 4057, 4058, 4061, 4062, 4063, 4064, 4070, 4071, 4072, 4073 REPEAL: 4065

**Title 22**

07/11/05 AMEND: 70217  
07/06/05 ADOPT: 72516, 73518  
06/30/05 AMEND: 90417  
06/02/05 ADOPT: 51000.10.1, 51000.15.1, 51000.20.9, 51000.31, 51000.51, 51000.52, 51000.53, 51000.60 AMEND: 51000.1 51000.1.1, 51000.3, 51000.4, 51000.6, 51000.7, 51000.16 51000.30, 51000.35, 51000.40, 51000.45, 51000.50, 51000.55, 51051, 51451  
05/17/05 AMEND: 66250.1, 66250.2  
05/05/05 ADOPT: 97251, 97252, 97253, 97254, 97255, 97256, 97257, 97258, 97259, 97260, 97261, 97262, 97263 97264, 97265 AMEND: 97210, 97211, 97212, 97213, 97215, 97216, 97218, 97219, 97220, 97221, 97222, 97223, 97224, 97225, 97226, 97227, 97228, 97229, 97230, 97  
04/21/05 AMEND: Appendix  
04/11/05 AMEND: 66260.201  
04/11/05 AMEND: 111430  
03/24/05 AMEND: 70577, 70717, 71203, 71517, 71545  
03/23/05 ADOPT: 96000, 96005, 96010, 96015, 96020, 96025  
03/23/05 ADOPT: 50960.2, 50960.4, 50960.9, 50960.12, 50960.15, 50960.21, 50960.23, 50960.26, 50960.29, 50960.32, 50960.36, 50961, 50965 AMEND: 50962, 50963, 50964 REPEAL: 50960, 50961  
03/14/05 AMEND: 926.3, 926.4, 926.5  
03/10/05 AMEND: 70217  
03/03/05 REPEAL: 12901

**Title 22, MPP**

06/29/05 AMEND: 63.103.2, 63-300.5, 63-402.229, 63-503.441, 63-509(b), 63-509(c), 63-801.737(QR)  
06/15/05 AMEND: 80027, 80036, 87224, 87228, 87834, 87836, 101178, 101187, 102384  
05/09/05 AMEND: 80044, 80045, 80066, 80070, 84063, 87344, 87345, 87566, 87570, 87571, 87725, 87725.12, 87844, 87866, 87870, 88069.7, 88070, 89119, 89182, 89244

**Title 23**

07/13/05 ADOPT: 3420, 3421, 3422, 3423, 3424,  
3425, 3426, 3427, 3428  
06/20/05 ADOPT: 499.4.1.1, 499.4.1.2, 499.4.2,  
499.6.3 AMEND: 499.1, 499.2, 499.3,  
499.4, 499.4.1, 499.5 499.6, 499.6.1,  
499.7, 499.8, REPEAL: 499.6.2  
06/13/05 ADOPT: 18459.1.2, Form CIWMB 203,  
Form 204 AMEND: 18449, 18450,  
18451, 18453.2, 18456, 18456.2.1,  
18457, 18459, 18459.1, 18459.2.1,  
18459.3, 18460.1, 18460.1.1, 18460.2,  
18460.2.1, 18461, 18462, 18463, 18464,  
18466  
05/31/05 ADOPT: 2917  
05/23/05 ADOPT: 3939.14  
05/17/05 AMEND: 645  
03/28/05 AMEND: 2611  
03/11/05 ADOPT: 3944.1

**Title 25**

07/11/05 AMEND: 8002, 8004, 8012, 8014  
07/07/05 ADOPT: 8439, 8439.1, 8439.2, 8439.3,  
8439.4, 8440, 8440.1, 8440.2, 8440.3,  
8441, 8441.1, 8441.2, 8441.3, 8441.4,  
8441.5, 8442, 8442.1, 8442.2, 8442.3,  
8442.4, 8442.5, 8442.6, 8442.7, 8442.8,  
8442.9, 8442.10, 8442.11, 8443, 8443.1,  
8443.2, 8443.3, 8443.4,  
04/25/05 AMEND: 7056, 7060, 7062.1, 7064,  
7066, 7078.4  
04/14/05 ADOPT: 7340, 7341, 7342, 7343, 7344,  
7345, 7346, 7347  
04/07/05 AMEND: 6935, 6935.2

**Title 28**

06/17/05 AMEND: 1300.70.4

**Title MPP**

04/22/05 AMEND: 42-101

